App. F. IX-4

Previous References

1925
~~193~~ .
(Murarai)

File No. 213 of 1925
Serial Nos. 1625

Later References
Xacr 93-30-1-2
" 121-36-1--2

General and Revenue Secretariat.

Serial Nos.

Part B for

SUBJECT.

Execution of decree in O.S. 93 of 19-20 in the Sub court, Bangalore, against money belonging to Avani Mutt in the hands of the D.C. Kolar.

To, Mem Govt in mysore

Mem 1487 dated 8-1-31
issuing instructions to file a
regular suit as detailed therein
Mem 1488 copy to P Pr

G. R. S. 11] 1925

GENERAL AND REVENUE SECRETARIAT.

(Muzrai

NOTES.

File No. 213/1925

FILE HEADING.

Execution proceedings for the recovery of about Rs 3600/- due by the late Swamy of Sri Bharati matt.

From

The Asst. Comr.

No. C-855 Dated 23/11/1926 Received —

Diary No. 835	Enclos. 2 Spare Copies. —	Serial No. 1

BRIEF ABSTRACT OF LETTER.

Reports that the Decree-holders in O.S. No. 93/19-20 on the file of the Sub Judge's Court, Bangalore, have taken execution proceedings, and requests that the Govt. Advt may be engaged to file objections in the Court

NOTES AND ORDERS.

on the 28th inst. and that the opinion of the Legislative Secretary may be conveyed to him for communication to the Public Prosecutor about the position of Govt. as trustees of the Matt properties etc.

The facts of the case are not

NOTES—First Sheet.

Serial No.

clear - the Mess Cook & premises to submit a copy of the ex parte decree, and a copy of the loan bond if any executed by the late grating.
✓ The case stands posted to the 28th instant.
Submit for orders.

AV 25.1.26 VP 27.1.26 Rev. Secy 25/1

4 The points of law on which the L. L. Secy's opinion is sought for are noted at A in the Dy Commrs report.

676 26.1.26.

1st. member 26.1.26. 26/1

5 L. L. Secy's opinion may be obtd on my return & the Govt advocate is to appear with Case. I presume he will have to be on behalf of the Govt & his Expenses in connection with his appearance will have to be debited to the Govt.

6 To L. L. Secy with Compliments 26/1 27/1

Draft

It is not possible to give any opinion regarding the validity of the claim put forward by the decree holder until the copy of the plaint & of the documents, if any, on which the suit is brought,

NOTE—Contn Sheet

WD 01264 –GPB –40,000—17-12-25

Serial No.

8

The proper course to pursue appears to me to instruct the Public Prosecutor to appear on 28th inst & obtain a short adjournment to enable him to obtain necessary copies then to go through the records to find out whether it is advisable to take steps to set the decree set aside.

9 If he obtains the copies & produces before me, I shall go into the matter & advise the Govt as to what course to follow.

10 As to the costs to be incurred, they have to be met by the Merlt authorities. If approved, I would also ask the P. P. to appear thereon & do the needful.

27.1.

11 1st & 2nd Rec'ts

29/1 27/1

723
29.1.26

12 Action may be taken as once or Govt orders if not already done

28/1

13 To L. K. Secy with compliments.

29/1.

Rec'd at 5 P.M.
P. P. may be instructed at once.

28/1.

14 Draft may issue

28/1.

NOTE—Contn. Sheet

87b

General and Revenue Secretariat

WD 264—GPB—40,000—17-12
[App. F. III—2

File No. 213 of 1925.

Serial No.	
2.	From. The Insp. Genl. Police. Letter no. C. 855 dt 4.2.1926. Forwards a copy of his letter to The Public Prosecutor, Bangr enquiring The date to which The hearing has been adjourned, and submits a copy of The S and The Judge's order in The S received from The Public Pro The connected file of papers has submitted to The L & L Secretary for opinion on 27-1-26. This may be sent in Confn. Submitted. 5/2/1926 16 For perusal. May will be sent to the L.L. Secty. in continuation. 17 Rev. Secy. 5/2 L.L. Secty. 6/2 Submd. The Inspector General of Police, Bangalore.

NOTE—Contn. Sheet

Routine Notes.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

---

11 D. 943

Muz. 213-25-3

The Muz. Com^r submits copies of two notes and Plaint in O.S. no. 93 of 19-20 on the file of the Sub Court, Bangalore, against the late Swami of Sri Avani Math.

2. The previous D. nos 835 and 876 received from the Muz. Com^r were forwarded to the A & L Secty for opinion on 29th January 1926 and 6th February 1926 respectively.

3. The papers may be sent to the Secty for Law,

Secretary
A.V. 11/11/26 8/2/26

V B —Should routine notes be written on small slips, the notes must be copied, or slips pasted on this form.

9463

G.R.S. III—3]

Routine Notes.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

VM For perusal, before transfer to the L.L. Secty. 25 Rev. Secty) 18/2

Vb Seen 18/2

VJ L.L. Secty) 18/2

Vb

A draft letter to the P.P. Bangalore is printed in

1.Dr.2 21/2/26.

To the P.P. Bangalore. P. Lecs 2 Dr. 25.2.26. Refers him to take instructions from Mr. L.L. Secy.

N.B.—Should routine notes be written on small slips, the notes must be copied, or slips pasted on this form.

Serial No.

From the Muzaffarnagar Court No C.E. 55/25/6 dt. 28. 2. 26. stating that the case is posted to the 29th. March.

3/ Shall for hearing. The A. Govt. has been asked to see the Secret & take instructions. Reply to be sent to the Muzaffarnagar Court is for orders.

1. Nov. 3/3/26

3/3 L.L. Levy

3/3 I had a discussion with P. P. today & instructed him to file an application to set aside the ex parte decree. The only point is whether there are sufficient grounds for delay. An attempt may be made.

3/3 Recd. with Compts.

3/3 I.M. Hadley

8/3 13/3 13/3

464/16.3

16/3

The decree was a personal one against the late Swami. Can the Taluk proceed now on the possession & first be proceeded with in execution the decree?

3/3 I should like to be favored with the L. & Legl. opinion on the point & the instructions of the P.P. Counsel be asked to oppose Executn. proceedings on the above grounds.

16/3

3/4 L. & Legl. with compliments.

17/3 .31

NOTE—Contn Sheet

439 Pgs

[App. F. III—2

Secretariat

mur File No. 213 of 1925

Serial No

3) The decree is against Lake Swamis as well as against the properties of the Trustees.

W. It is an Ex parte decree unless it is set aside, there is no chance of impeaching the allegations in the plaint.

W! I am therefore of opinion that at least an attempt may be made to have the decree set aside. P.P. may be instructed to file the necessary application

W. Revised with Compts

Draft reply to the M.C is submitted, for approval.

W! Rev. Secy 18/3

18/3

W) Secy to the Govt 18/3

5 To. over Comms. No 1199 & 18.3.26

Requests him under the circumstances explained in the letter to instruct the P.P to file necessary applin to have the decree set aside & calls for report on the result of action taken on No 1200-1 & 18.3.26 forwards Copies to Dr Revenue & Public Prosr

NOTE—Contn. Sheet

App. F. III—2]

WD 0569—GPB—40,000—

File No. / of 192

General and Revenue Secretariat

Serial No.

NOTE—Contn. Sheet

336

Serial No.

(Vide copy) Fy 13

From, The Magrai Court
Letter no. C. 855 dy 2. 9. 926.
Submits P. P's letter with.
stating the present stage of the case.
In the case, it is reported, is now posted to 7-9-1926 for arguments
Submitted
7/9/26. by Rev. Secy

If the result of the hearing may be ascertained

Revn 11.9.26

Dept 10/9

DR. Submitted
14/9/26. Sandoe 14/9

7. To mun. Comm. 515 dy 1.7.26
Requesting [illegible]
[illegible]

8. From the M.C. no. C. 855 dy 25.26 dy 5.10.26
Forwards copy of a further Court's order from the Public Prosecutor Mangalore, intimating the present stage of the Pro-

2838 P.26

WD 01264—GPB—40,000—17-12-25

General and Revenue Secretariat

[App. F. III—2

File No. 23-25 of 192 .

Serial No.	
	3 The Public Prosecutor says that the Case has been finally posted for hearing on the 2nd Nov. 26, & that the absence holder who offered to compromise the matter has been refd to the Sessions Judge Kolaba.
	4 Further development of the Case will be watched & the further reports promptly submitted.
	12.10.26
9.	From, the Mag. Coll. Letter no. C. 855 dd 10.12.26.
	Submits copy of letter dd 3/12/26 from the D.C. Kolaba, on the Subject and requests the Legislative Secty opinion about the applicability of the Privy Council decision to the Avani Natt case in Ques. The D.C's letter explains the facts of the case.
	The Protection Br. may be consulted in the matter.
	Submitted for perusal - Ld Secy wishes consulted 13/12/26 13/12/26 17/12
	Ld Secy Yes please 18/12
	Ld Secy. 20/12
	Write D.P. Pr to see me in connection with this case. 24.12

1950

Allen Law 27/12

NOTE—Contn. Sheet

27/12

WD 01264—GPB—4 000—17-12-25

General and Revenue Secretariat

File No. 213

of 192 5

Serial No

67

pr P. discussed with me & promised to make a Communication.

8/
7/1.

NOTE— Contn. Sheet

3444/25
P

G. R. S. III—3]

ROUTINE NOTES.

[To be used only for notes, requisitions, etc., not intended for permanent record]

D. 1044.
Mcg. 213-25.

Letter no. C. 855 dt 29.1.27 from the Mcg Court in Mysore re The execution of the decree in O.S. no. 93/19-20 on the file of the Sub-court, Bangalore, against Sri Sriram Mallya.

b) The connected file no. 213/1925 containing D. no. 794 was transferred to A & L Section on 20-12-1926.

c) This may be returned to that Section.

Sub Court.

31.1.27. BG 31-1-27

YS 31/1

A & L Section

Laws 12

N B.- Should routine notes be written on small slips, the notes must de copied, or slips pasted on this form.

W D 1850—GPE—1,50 000—2-5-21

G. R. S. III—31

ROUTINE NOTES.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

N. B.- -Shouldroutine notes be written on small slips the notes must b cipoed, or slips pasted on this form

WD 01226—GPB—37,500—1-9-26

Serial No

46 In this case the Public Prosecutor was instructed by the Secretariat on 8.1.27 and he promised to make a communication which is still due. It may perhaps be reminded through Secretariat for orders

1/2/27

3886 D 3/2/27

Sd

NOTE Contn.Sheet

1044
L.L-Secty

44243

OFFICE OF THE MUZRAI COMMISSIONER IN MYSORE.

Bangalore, 3rd February 1927.

FROM

MUZRAI COMMISSIONER IN MYSORE.

GEN. & REV. SECRETARIAT. 4 FEB 1927 MUZRAI

GEN. & REV. SECTT. 4 FEB 1927 C.D. SECTION

To

D 1088

Muz 213-25-

The connected file containing D no. 1044 was transferred to L & L Section on 1/2/1927. v Muz may be sent in Cantu. Submitted 3/2

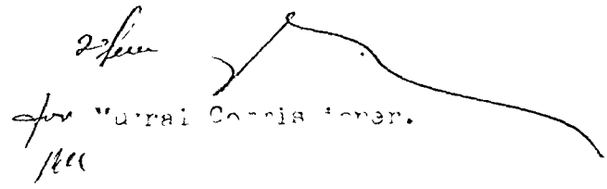
(3) Please bring up what with this relate to & was left pending on

L & L Sectt

to stay execution proceedings until

to set aside the exparte decree."

"Copy"



WD 61226—GPB—37,500—1-9-26 (3)
App. F. III—2]

al and Revenue Secretariat

File No 213 of 1925.

Serial No

6 Submitted with the previous papers. The Govt. instructed the Public Prosecutor on 8.1.27 & the latter promised to make a report which is awaited. He has been reminded again today.
7.2.27
Asst Secy with Copies

Register Please!

AV 8/2

8 Submitted for personal orders
8/2/27

? For perusal. The P.P. will be reminded to expedite his comm^n Reg para.
9/2

Secy. (Secd Member)

11 Mem Pr - Please remind P.P.
11/2

AV 9/2

12 Dft. Rem & Subscr
14/2/27

13 Issue
15/2

14 Reminder has issued.

15 The P. P. Reports that the Stay application is posted to 11 March 1927 for the objections of the decree-holder, and that the next applica-

LEGISLATIVE COUNCIL
6 FEB. 1927
No. 5401

FINANCIAL SECRETARY
6 FEB. 1927
No. 337

Serial No.

for the Setting aside of the ex parte decree, is adjourned to 26-5-27 for evidence.

16 may be sent to L. Secy

for

MW
22-2-27

23/2/27

17 for favour remarks on the point raised in the Munsif Cent's letter dt 3/2/27

MW
24/2

Secy Law Dept to).

25/2.

18 I have already recorded my opinion in the case of Sp Commr Dis Counsel the matter with the P. Prosecutor.

(vide notes dated 17.3.26 @ page 39 ante 41)
& note dated 8.1.27. (page 62).

Final Secy
with comps.

25/2

File regarding Decree against Avani Mutt.

The Law Secy's view seems to be that as the decree is against the mutt as well as the Swami the property of the mutt is liable to be attached for satisfaction of the decree unless it is set aside. The Public Prosecutor has applied to the Cent for getting the decree set aside and in the meanwhile for staying execution.

M.C's letter dt 26-2-27 submitting a copy of P.P's letter (Gpo D), which is in the file, is put up.

MK
3/3/27

WD 01229—GPB—37,500—1-9-
App. F. III—2]

Revenue
ecretariat

File No. 213 of 192 5.

Serial No.

The point for orders at present on the file how the Dy Comr. Kolar should reply to the Court which has sent a warrant of attachment in pursuance of the decree. The Munsif Court may be informed that if we should save the matter proper it is necy to have the decree set aside and as an application has been made for the purpose and the Court has been moved to stay execution pendy disposal of the application, the D.C. may return the warrant to the Court for reconsideration if it may prefer or otherwise request that it be kept back after the application is disposed of.

FINANCIAL SECRETARY
3 MAR 1927
No. 4021

MW 4/3

Dy Secy)

20 The stay application is posted for objections of the decree holder on the 11th inst.—

21 In order as to what action should be taken by the D.C. Kolar after stay.

Lawyer with Compliments.)

4266

h 7/3/27

MW

22 I sent for the P pr & had a talk with him. He says that the petn filed by him for stay of exn will be heard on Friday next & that he will intimate the result. After the result is known D.C. will be advised as to the course of action to be taken

Secy 3/3/27

JB Asstt

NOTE—Contn. Sheet

13

1314

WD 01229—GPB—37,500—1-9-26

General and Revenue Secretariat

Misc File No. 213 of 192 5

App. F. III—2]

Serial No. 10

To the Public Prosecutor Bangalore Dn

Memo No- dt 14.3.1927

States that the execution case against the Arzee Mutt which was taken up by the Court on 11.3.27 has been adjourned to 26.5.1927 by which date the application for setting aside the ex parte is posted for evidence & as the decree-holder prayed for further time for filing objections to the stay application.

Submitted for orders with reference to paras 22 & 23 above.

HMK
18 3 27

Imperial

mw
4/3

Agency.

3rd instance

h
21/3

CBK
21.3.27. h

4754

OFFICE SECRETARIAT
21 MAR. 1927
No. 6128

Sus Bh 4550

Bg

A Ofc. to the P.P inquiring whether the case was heard on the 26th May and if so, how it was disposed of. Is submit for ord.

BM 8/6/1927. EG 8.6.27

NOTE—Contn. Sheet

App. F. III—2]

General and Revenue Secretariat.

154 P. 18 13½ 18

Mag. File No. 213 of 192 S.

Serial No.	
11	From, the Public Prosecutor, Bangalore, Letter no. 5 Dy S. 7. 27. Reports that for reasons stated, the application to set aside the ex-parte decree, was dismissed, etc. 3rd Secty's order:— .... the Law Secty. may be consulted. Submit. — BV 7.7.27. 7.7.27 Secy Law Dept.) The suggestion made in the last para of the letter of P. P. may be appd under the circumstances of the case. MW 7/7
	3rd Submit for appl — MV 9.7.27. 89 9.7.27 Secretary Member) 3rd Why did the clerk absent himself? The head of the office shd Why was application to set aside decree be kept pending for ½ hour after the prescribed time? Why was not reported? (4.7.27) MW 11/7 MW 15/7

OFFICE OF THE SECOND MEMBER OF COUNCIL. 12 JULY 1927 No. 267

705 15.7.27

NOTE—Contn. sheet.

WD 2293—GPB—10,000—4-5-27—Ved

App. F. III—2]

General and Revenue Secretariat.

Muz File No. 213 of 1925.

(69

Serial No.	
	28/7 Appl. added to and Re submitted for appl AY 15/7/27 8:7 15/7/27 5/ Issue mo 15/7
12	To, The Public Prosecutor, Bangalore. Letter no. 106 Dy 18.7.27. Approves of his Suggestion to ascertain from the Advocate for the Decree holder, the terms on which he is prepared to come to a Settlement, and enquires why the application to set aside the Decree was filed after the prescribed time.
	By the Muz. Comr. O. M. no. 107 Dy 18.7.27. Forwards a copy with a request that the clerk's explr may be obtained for failure to attend the court on the day of the hearing.
13	From the Public Prosecutor, Letter no. 215 Dy 15.1.28

NOTE—Contn. sheet.

WD 2293—GPB—10,000—4-5-27

1920

App. F. III—2]

General and Revenue Secretariat. | File No. 213 of 1925.

Serial No. 13

Gives reasons for not filing in time, the application to set aside the ex-parte Decree.

(2) The P P's letter is silent re the terms of compromise with the decree holder for the ~~Deree~~ holder.

A copy of the P.P's letter has gone to the D.C who may perhaps report on the point.

The D.C's report called for on the subject, may be awaited.

Submitted.

18.1.28 18.1.28

Returned

20/1

Submitted.

20.1.28

Done

20/1/28

(Reminder no. 1166 dt 23.1.28)

From, the Muz. Comr.

Letter no. C.855 dt 26.1.28.

Submits the explr of the clerk concerned for not attending the court on the date of hearing and reports that for reasons stated, no further action is required in the matter, and promises to submit further report on the terms of compromise de.

NOTE.—Contn sheet

General and Revenue Secretariat. File No 23 of 1925

Serial No

14 The further report called for, may be awaited.

Submit

30.1.28

1 FEB. 1928
No. 4246

14 From, the Inspector Comr.

Letter no 855 dt 14.8.1928.

Reports that as there is a new Swamy at the head of the Math, the question arises as to whether he should not be made a party to the Ex. proceedings, and given an opportunity to contest the claim, and feels it as his opinion that for reasons stated in para 5, the matter requires reconsideration in consultation with the Legal Remembrancer.

It is stated that the Ex. case stands adjd to 17.8.28. and the Sub Judge requests that the amount attached may be sent on or before that date.

may the file be sent

NOTE—Contn. sheet

272

App. F. III—2]

General and Revenue Secretariat.

File No. 43 of 1928

Serial No.

To the Legal Remembrancer for an expression of his opinion on the Mun. Comr's proposal?

Secy.

(for Member) 18/8/28

Yes

Secy

18/8/28

(by Remembrancer) for favor of immediate expression of opinion

18/8.

I agree with the Mun. Comr that an application should be made to ~~substitute~~ ask the Court to make the present Swami as a party to the proceedings.

I have spoken to the P. P. on the to take necessary action tomorrow.

Actg. Secy with compliments.

16/8

Mun. Comr.

will be informed accordingly

(for Member) 18/8.

Yes

Secy

(G. S.)

Dy. Secy.

21/8/28

Note—Contn. Sheet.

RECEIPT IN THE [illegible] OFFICE
15 AUG. 1928
No. 1134

CHIEF SECRETARY.
17 AUG. 1928

[illegible] OFFICE
18 AUG. 1928
No. 1197

WD 01714—GPB—30,000—18-4-25

D 212/28.3.29

29/3/29

App. F. III—2]

General and Revenue Secretariat.

File No. 213 of 192 8-9

Serial No. 15

To. The Deputy Comm.
Cro. Gil A/ 11 8 98
. states that the d gal Enlis
agreed with him, that an Applⁿ.
should be made to ask the court
to make the presence of accus.
as a party to the proceedings.
the D.C. has been asked to
take necessary action on
the date of hearing —

may be sent to Bob Branch

DY
25.3.29

WW with compts
25/3

It is not known why these papers
are sent to this Branch. In the Council
file kept in Sec B,
file of the further proc^s in the Exec^n case
is being watched.

DY — To the Murzai Br. with the Council file
26 3 29 which may be returned after perusal
WW
16/3

16 From, the Dy C. letter no 855 Dy 26.3.29
Submits copy of letter from
the Kolar D.C. stating that the
P.P. has been requested to Contest
the application by the Decree Holders

WW
28/4

Note—Contn. Sheet.

General and Revenue Secretariat

File No. WD

App. F. III—2] of 192 S

Serial No.

Ex. Case no 2504/M-25 to bring on record the present Swamisatam of the Matt.

may be sent to Post Box for information

Submitted

25/8/29 (Post Box)

30/8

3 SEP 1929

(L-R.)

2/9

2/9

(Mud Box)

may be kept in this Shelf, after Assistant Secretary's perusal.

Submitted

4/9/29

9/9

4/9 Letter No C 115-/30-31 & 18/11/30 from the Mazrai Commissioner requesting that the Legal Remembrancer may be consulted and instructions issued as to the action to be taken in the matter of execution proceedings against the Swamigalu of Sri Avani mutt and also obtaining early orders on the matter

For orders if the file may be refd to L-R. as to the course to be adopted in the circumstances refd to in the letter

20/11

(H. Secy)

20.11.30

4151/21/31

Note—Contn. Sheet

WD 01884—GPB—30,000—20 4 29

Law Sect

General and Revenue Secretariat

Mu3 File No. 3-273

App. F. III—2]

of 192

Serial No.

(1) Copies of the following are necessary before an opinion can be given as to further action being taken in the matter:—

1) Plaint in O.S.93 of 19.20.
2) Decree passed exparte in the Case -
3) Exec^{n} appl^{n} in E 2544/24-25
4) His appl^{n} filed to set aside the exparte decree & the order passed thereon
5) Obj^{n} statement of the present Swami filed in the Exec^{n} case
6) order passed on 27-9-1930 in the Exec^{n} Case -

He must have these already in his office file -

The Pl^{r} may be asked to send the above ~~x~~ immediately to the Legal^{r} with his opinion as to the advisability of appealing from the order of 27th Sept^{r} or as to what other action can be taken under the Circ^{s} of the Case - (Vide rule 105 of the Legal affairs Rules) -

Mu2: Sectt)

BM 24/11

25.11.30

D Sd. 25/11

Dft submd

Issue & Submit

25.11.30

No 1201 of 25/11/30 to the Public Prosecutor & Asst Public Prosecutor

Note—Contn. Sheet

WD:01684—GPB—30,000—20-4-29

738

General and Revenue Secretariat | File No. 213 of 1930 | App. F. III—2]

Serial No.

Calling for certain copies of applications in connection with the Execution Case against Sri Avani Mutt Swamy (Ashtagram) under 25/11/30.

26/11

For Kind perusal

1st Member

VS

27.11.30

OFFICE OF THE FIRST MEMBER OF COUNCIL
29 NOV 1930
No. 5334

No 218/30-31 dated 1.12.30 from the PPr. Bangalore forwarding the papers called for and soliciting instructions in the matter of preferring an appeal against the present order.

This is rather an unfortunate case, sadly mismanaged at cruicial stages.

The late Swamy of Avani Mutt, Sri Vidya Sankara Bharati Swamigalu, had borrowed from one N.Balaji Rao, Mittadar of Krishnagiri, two sums of Rs 400 and 1600 respectively on the 4th and 13th May 1917 and executed two pronotes agreeing to repay the amounts on demand with interest at 6% on the sum of Rs 400 and at 36% on the bigger sum of Rs1600.

2. On 17-5-1920, the creditor Mr Balajirao filed in the Sub Court Bangalore a suit (O.S. 93 of 19-20) for recovery of Rs5256 being the principal

NOTE—Contn. Sheet

WD 0255--50,000—GPB—8-7-30

principal and interest due on the pronotes and prayed for a decree against the defendant Swami as also against the Mutt properties. No reason is given how such a decree could be prayed for in a suit on a mere pronote. The defendant was however exparte and on 26-9-1921, the Sub Judge (MR.S.Venkatakrishnaiya) held that the service effected on the Mutt was sufficient and passed an exparte decree as prayed for in the plaint.

3. The decreeholder took out execution against the late Swami on 17-9-1924 and since the Swami died on 11-4-1925 the execution application was dismissed on 27-5-1925. After the death of the Swami, the Mutt came under the management of Govt, since no successor was nominated by the deceased. Consequently Ex.Case 2544 of 24-25 was filed in the Sub Court by the assignee of the Decreeholder against the Deputy Commissioner, Kolar in October 1925. Notice of this case was served on the D.C. on or before the 19th Oct 1925. The Public Prosecutor, Bangalore,(MR.M.Ramaswami), was engaged in the case and as per instructions of the then Legal Remembrancer (vide note dated 17-3-26 of Mr B.Nagappa) a mis. application under Order 9 rule 13 C.P.C. to set aside the exparte decree was filed on 17-5-1926, nearly 5 years after the decree and about seven months after the D.C. came to know of the decree. It is not clear how this course was adopted, especially when it was beyond doubt clear that the application was barred by time and Sec. 5 of the Limitation Regulation could not apply, by the very words of the section to applications under order 9 rule 13. The better

Serial No.

way would have been perhaps to apply for a review of the exparte judgment + decree in which case the Court would have had jurisdiction to condone delay and set matters right.

4. However the application was registered as Mis Case 354 of 25-26 and dragged on till 26th May 1927 when again an unfortunate incident happened. The Public Prosecutor was engaged in Tumkur Sessions and had entrusted the case to Mr P.Lakshminarasu. He appears to have merely thought of obtaining an adjournment of the case on the 26th and accordingly advised the Clerk of the D.C's office, Kolar, who had come to give instructions to attend to his own work. The case was for evidence and no steps had been taken to summon witnesses etc.. The motion for adjournment was opposed by the Decreeholders Counsel and the then Sub Judge (Mr.P.Mahadevayya) had no option but to refuse the adjournment and dismiss the application.

5. The P.Pr Mr Ramaswami reported this to the Financial Secretary in his letter of 5th July 1927 and added, perhaps as a mitigating circumstance, that in any case the "application to set aside the exparte decree having been filed long after the expiry of 30 days allowed by law" could not have been maintained and suggested that if there was no objection he would try to effect some settlement with the decreeholder. The Legal Rr. assented to this

NOTE—Contn Sheet

WD 03563—G PB—50,000—8 7 30

this on 7-7-1927. Nothing however appears to have come out of this attempt at settlement.

6. The Decreeholder tried again to proceed with the execution of the decree and the Muz. Comr. in his letter of 14-8-1928 suggested that as by that time a new swami was appointed, he had to be brought on record and given an opportunity to contest further execution. The Legal Rr. agreed to this on 16-8-28 and accordingly the Public Prosecutor, Mr Vijaya Deva, appeared for the Swami and filed objections impugning the validity of the decree as passed in O.S. 93 of 19-20, on the ground that the debt being not for purposes binding on the mutt, the decree could not bind the properties in the hands of the present swami. After nearly two years , i.e., on 27th September 1930 this objection was heard and dismissed , the Court holding that it, being an execution Court, could not go behind the decree. It was ordered that the attached amounts in the hands of the D.C. Kolar be sent for by 24/10/1930.

7. The question that is now asked is as regards the further action to be taken to protect the Mutt properties from being proceeded against. The P.Pr in his letter of 1st Decr. (P.U.D.) states that the question is not free from difficulty and suggests that an appeal be preferred against the order of the Subjudge passed on the 27th Septr.

8. There appears to be no good chance of success in appeal, since it is hard to contend

Serial No.

that the order passed is illegal or incorrect. It is settled law that an executing court cannot enter into questions regarding the validity of the decree, but must take it as it stands. (Mulla C.P.C.page 141). The only remedy that seems possible is to file a regular suit for declaration that the debts & the exparte decree obtained thereon does not bind the Mutt properties in the hands of the present swami. The suit cannot be to set aside the exparte decree on the ground of fraud since such a suit has to be filed within 3 years after the plaintiff came to know of the fraud. Moreover in the circumstances of this case it is problematical how far allegations of fraud can be substantiated in a court of law. The suit therefore has to be one to declare that the decree obtained against the late swami is not binding on the present, on the ground that it is only decrees fairly obtained by or against the mathadhipathi as representative of the mutt that bind both his successor and the mutt properties. (Gour's Hindu Code page 1215). In this case the debts due are on promissory notes and according to the decision in Swaminatha Iyer vs Srinivasa Iyer (32 Mad L.J 209) no decree against the mutt properties can be passed in such cases.

9. It is no doubt true that difficult questions as to limitation and resjudicata are certain to arise in the proposed suit, and have to be

NOTE—Contn Sheet

WD 02553—G PB—50,000—8 7 30

2749/P.

File No. of 193 | General and Revenue Secretariat

to be got over, if possible..Since the amount involved is considerable, being now nearly Rs6000/, it seems to be worth an attempt to try if the mutt properties could not be saved from this heavy liability.

If approved, the Government Advocate may also be consulted in the matter.

Legal Rr. DY 6/12/30.
R O.No.p 36 of 30 dt 6-12-1930
I forwarded R.O., with compliments,
to the Govt Advocate for favouring opinion
Rc Rc
PMahadevappa
6/12/30

Re-transmitted with compliments.

No. Do. 33/30-31
dt 15.12.30

I have carefully gone through the papers in the file. It is clear law that the validity of the decree cannot be questioned during execution proceedings. Accordingly, the only course now open is to institute a separate suit for a declaration that the ex-parte decree now under execution is not binding on the Mutt properties in the possession of the present Swami and for a permanent injunction restraining the decree-holder from proceeding against such properties in execution of the said decree. The article of the Limitation Regulation which seems to govern such cases is Article 120 and the proposed suit can be instituted within six years from the date on which the Mutt properties were attached or the money to the credit of the Mutt in the possession of the Deputy Commissioner

Serial No.

Commissioner was ordered to be sent to Court. The burden of proving that the debt in question is binding on the Mutt lies heavily on the present decree-holder, ~~xx~~ especially as his claim is based on ~~pos-~~ promissory ~~sessing~~ notes executed by the late Swami. The decree-holder will have to affirmatively prove that the debt is binding on the Mutt because it is something other than a personal one, that is, that it was absolutely necessary in the interests of the Mutt to have contracted it. (Vide. 15 Cal. 329 and 6 C. W. N. 663).

Bangalore,)
15-12-1930.)

Sd/- R. Ramachandra Rao
Government Advocate.

The Govt Advocate is also of opinion that the only course is to file a Declaratory Suit.

Subd/ for orders.

Legal[r]

16/12

I think a regular Suit has to be filed as already suggested & the G.A. is also of the same opinion.

2nd Member

Through Dewan Sec[y]

Maybe done.

D. M. 22/12

24/12/30

D 26/12

CSK 3/1/31

VS h 5.1.31

NOTE—Contd. on Sheet.

OFFICE OF THE FIRST MEMBER OF COUNCIL
26 DEC. 1930
No. 6.11.43

WD 02553—G PB—50,000—8 7 30

Submitted - After issue the file will be refd. to Law Secty. for issue of necessary instructions to P. Prohibition Dept.

8.1.31

(H. Seey)

81

8.1.31

82) 8/1/31

83) Issued

8.1.3

No 1487 of 8.1.31 to the Excise Commissioner issuing instructions in the matter of instituting a separate regular suit as detailed therein.

To. no. 1488 8-1-31 copy above to P. Prohibition Dept.

Law Secty)

8/1/31

P.1

8/1

See also Law 93 of 30 returned to Law Secty 17/1/31.

Submitted for orders

This file will be recorded and a fresh file opened if a further communication is received

17/1/31.

Yes

19.1.31

83

19/1

General and Revenue Secretariat | File No. | of 193

Serial No.	

Note—Contn. Sheet

WD 02328→ GPB—10,000—22-4-30

File No of 192

General and Revenue Secretariat

Serial No.	Note–Contn. Sheet

31647

No. C 85 5 of 25-6 Three

Office of the Muzrai Commissioner in Mysore

Dated Bangalore, 23rd January 1926.

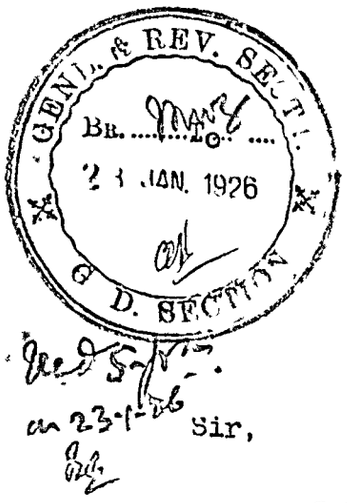
DIARY 1925 C 85

From

B. Ramaswamaiya, Esq., B.A., B.L.,

Muzrai Commissioner in Mysore,

Bangalore.



To

B. Srinivasa Iyengar, Esq., B.A., B.L.,

Secretary to the Government of

His Highness the Maharaja of Mysore,

Revenue Department.

Sir,

I have the honor to submit herewith copy of letter R.O.C.No. 502/25-26 dated 21st January 1926 together with its enclosures ---- received from the Deputy Commissioner, Kolar District, stating that the Decree-holders in O.s.No.93/19-20 on the file of the Sub-Judge's Court, Bangalore, have taken execution proceedings for the recovery of about Rs.3600/- due by the late Swamigalu of the Sri Avani Matha and requesting that the services of the Government Advocate may be engaged to file objections in the Court on the 28th Instant and to request you to be so good as to consult the Secretary to Government in the Legislative Department and to favour me with his views for communication to the Public Prosecutor about the position of Government as executive Trustees of the matha properties and the binding nature of the claim on the assests of the Institution, now under temporary management of Government pending the appointment of a successor.

The Public Prosecutor has been requested to send immediately a copy of the ex parte decree together with a copy of the loan bond if any executed by the late Swamigalu to Judge the bona fide nature of the debt said to have been contracted by the late Swamigalu -- and the liability of the matha for its repayment. The same will be

sent

P.T.O.

sent to you as soon as they are received.

I have the honor to be,

Sir,

Your most obedient servant,

for Muzrai Commissioner.

(Absent from station.)

KSR.

Letter No.ROC.502/25-26 dated 21st January 1926 from the - Deputy Commissioner Kolar District to the Muzrai Commissioner in Mysore.

- - - - -

"I have the honor to forward herewith, copies of correspondence between this office and the Public Prosecutor, Bangalore Division, re: a Civil suit against the late Swamigalavaru of the Avani matt, for favour of perusal.

2. A decree was passed ex-parte, by the Sub Judge of Bangalore, against thelate Avani Swamigalavaru in O.S.No.93/19-20. The decree holders having taken execution proceedings in execution case No.2544 24-25 for the recovery of about Rs.3,600 from the Swamigalvaru, the Sub Judge, sent to me a notice in duplicate, with his letter dated 10th October 1925, as it was learnt by the Court that the properties of the matt had come under Government management, since the death of the Swamigalu on 11th April 1925. This notice was received and the duplicate sent to the Public Prosecutor Bangalore Division, with my letter No.O.C.502/25-26 dated 20-10-25, with a remittance of Rs.10/- towards incidental costs, to appear before the Sub ~~xxx~~ Court on the date of hearing and contest the claim on the following grounds.--

whether the Government who are the trustees of the properties of the Sri Avani matha at present, or the successor who may hereafter be appointed by Government, succeeds to the liabilities of the late Swamigalvaru and 2. whether the debt incurred by him is a charge on the properties of the Matta.

The Public Prosecutor has obtained an adjournment in the case for 28-1-26, and on that date the objection if any will have to be filed in the Court. He wants necessary information about the filing of objections. I may state in this connection that the question -- is one of Law and that no information is available in this office -- about the suit in question and it is not also known whether we can successfully contest the claim of the Decree holders for the recovery of the heavy debt as Government appears to be merely a temporary -- custodian of the Matt properties, pending the appointment of a proper successor. I therefore request that if deemed necessary you will be so good as to move the Government Advocate, Bangalore, to take up this case on behalf of Government and to file objections in the Sub Judge's Court on the 28th instant, after duly consulting the Public Prosecutor

Bangalore

Bangalore Division in the matter.

3. The favour of immediate orders is requested as the date of hearing is only a week from now.

"C o p y"

2/Jama V 23/1/26

for Muzrai Commissioner.

KSR.

I.

Letter No:XX 3686 dated 10-10-25 from the Sub Judge, Bangalore Division to the District Muzrai Officer, Kolar District, Kolar.

==========

I have the honor to forward herewith notice in duplicate in Ex 2544/24-5 on the file of this Court and to request that you will be so good as to cause the duplicate to be served on the individual therein named, and the original returned to this Court with due endorsement of service thereon, on or before the date of hearing 30-10-25.

"Copy"

II.

Letter No:ROC.502/25-26 dated 19-10-25 from the Deputy Commissioner, Kolar District, to the Public Prosecutor, Bangalore Division, Bangalore.

I have the honor to forward herewith copy of letter No:3686 dated 10-10-25, from the Sub Judge, of Bangalore, forwarding notice in duplicate in the matter of the execution of decree in O.S.No:93/19-20 on the file of his Court, and to request you to be so good as to appear in the case on behalf of the Deputy Commissioner, before the Court of the Sub Judge on the 30-10-25, to which date the hearing of the case has been posted.

2. The plaintiff in the execution case is the assignee of the decree in O.S.93/19-20 and the defendant is Sri Vidyasankara Bharathi Swamigalu of the Avani Mutt, who has since died. As the Swamigalu died without nominating his successor to the Peetha the mutt with its belongings has come under Government management under Section 25 of the Muzrai Regulation.

3. The point for considerationis whether the Government who are the trustees of the properties of the mutt at present or the successor who may hereafter be appointed by Government succeeds to the liabilities of the late Swamigalu and whether the debt incurred by him is a charge on the properties of the Mutt. I request you to kindly go into these points and file an application contesting the claim.

4. A sum of Rs. 10/- has this day been remitted to you by money order and you are requested to obtain a copy of the judgment and of other

documents required for reference.

5. It is further requested that an immediate ~~application~~ application may be filed in the Court requesting for an adjournment of the hearing of the case to a convenient date so that there may be sufficient interval for collecting all necessary information for contesting the claim. The notice received from the Court is enclosed. It is requested that you will kindly take the necessary action at once and intimate to me what has to be done hereafter in this matter.

==========

"Copy"

Letter No:ROC.502/25-26 dated 11-1-26 from the Deputy Commissioner, Kolar District, to the ~~Deputy Commissioner, Kolar~~ Public Prosecutor, Bangalore Division, Bangalore.

In confirming the marginally noted telegram of this office dated the 7th instant, in the matter of the execution of the decree in O.S.No:93/19-20 on the file of the Sub Judges' Court, Bangalore, I have the honor to invite kind reference to my letter No:ROC.502/25-26 dated 20-10-25 in which your opinion was called for on certain points. Vis: (i) whether the Government, who are the trustees of the properties of the Matt at present or the successor who may hereafter be appointed by Government succeeds to the liabilities of the Swamigalwaru and (2) whether the debt incurred by him is a charge on the properties of the Matt. It cannot be made out from your letter whether you appeard before the Sub Judge on the date of the last hearing of the execution case to contest the calim. I again request you to be so good as to go into the question and let me know at a very early date as to what action is necessary in the matter. The date of the next hearing may be kindly intimated well in advance of time, so that the information which you may require may be furnished before that date. The copy of the decree is enclosed.

Telegram dated 7-1-26.

Your letter 5th regarding exparte decree against Avani Swamigalu Kindly obtain adjournment.Letter follows:.

==========

"Copy"

Letter dated 5-1-26 from the Public Prosecutor, Bangalore Division to the Deputy Commissioner, Kolar District.

With reference to the execution of decree in O.S.No:93 of 19-20 on the file of the Sub Judge's Court, Bangalore, I beg to send herein enclose copy of the decree in the said Suit. It will be seen that the decree is against the person of the Swami and the properties of the Matt. The suit was decreed exparte as the defendant did not appear and contest. The decree is binding and stands good.

However the execution application by the decree holder was in the first instance filed on 17-9-24 and was dismissed on 27-5-25 as it was brought to the notice of the Court that the Swami had been dead. If the Swami had died before 12-9-24 and if the death of the Swami had been widely known and to the knowledge of the plaintiff the ground of limitation could be successfully urged. I request you to kindly give me the facts for filing the objections if any. The case is posted for the 8th instant and the matter may be kindly treated as urgent.

=======

Letter No:.. dated 15-1-26 from the Public Prosecutor, Bangalore Division to the Deputy Commissioner, Kolar District.

In reply to your telegram instructing me to obtain an adjournment in the execution case relating to the Avani Matt I have the honor to state that time has been extented to 28th January 1926 for filing of our objections. Kindly send me the necessary instructions to enable me to prepare the statement of objections to the execution proceedings.

"Copies"

C Ramachandra

For Deputy Commissioner,
Kolar District.

V.V.R.3.
21/1.

Letter No.A-2-C.589-26-27 dated 3rd December 1926 from the Commissioner, Kolar District, to the Muzrai Commissioner in re.

"I have the honor to state that one B. Narasinga Rao and --- others have obtained a prohibitory order in the Court of the Sub - Judge at Bangalore, in execution of a decree in O.S.93 of 19-20 on the file of the said Court, against the late Sri Vidya Sankara -- Bharati Swami of the Avani Matt, requiring me to withhold a sum of Rs.4,868-1-0 belonging to the Sri Vidyasankara Bharati Matt, and to state that I have already instructed the Public Prosecutor, Bangalore to file an application to set aside the decree. The same is ---- reported to have been filed and the result is awaited.

2. It may be added that following the decision of the Privy -- Council in Sri Vidya Varuthi Thirtha Swamigal Vs. Balusami Ayyar (Part 19 Vol.XLI) the Head of a Hindu Matt is in the absence of -- justifiable necessity incompetent to create any interest in respect of the Matt property to endure beyond his life and the burden of proving justifiable necessity for this transaction must heavily re on the plaintiff. In this view, I am of opinion that the -----

the belongings of the Matt are not liable to attachment. I have pointed out this aspect of the point of law to the Public Prosecutor and instructed him to put forth his arguments on the lines of the decision of the Privy Council referred to above.

6. I request you to be so good as to consult the Secretary to Government, Local and Legislative Departments and the Government -- Advocate, in the matter and arrange for the conduct of the case in the Sub Judge's Court. I would also suggest that in view of the importance of the case involving most important points of law, it may be placed in the hands of the Government Advocate."

"C o p y"

9/12/26

for Mukrai Commissioner.

No. 3720
Legs

28-1-26

The Public Prosecutor,

Bangalore Division.

With reference to your letter dated the 15th instant to the Deputy Commissioner, Kolar District in regard to the execution case relating to the Avani Mutt, I am directed to state that the copy of the plaint and of the document if any on which the original suit was brought may be obtained at once from the Court and forwarded to me to enable me to give further instructions as to the course to be taken. In the meantime you may appear before the court and get a short adjournment.

I have the honour to be,

Sir,

Your most obedient servant,

Secretary to Government,
Local and Legislative Depts.

No. Office of the Muzrai Commissioner in Mysore.

Dated Bangalore, 3rd February 1926.

From

The Muzrai Commissioner in Mysore,

Bangalore.

To

The Public Prosecutor,

Bangalore.

Sir,

In continuation of this office letter C.No.855/25-26 -- dated 28th January 1926, re Ex-Case No.2544/24-25 on the file of the Sub-Judge's Court, Bangalore, I have the honor to request to be informed to what future date the hearing of the case has been adjourned and when copies of the suit pro-notes and the -- plaint may be expected to be received.

A very early reply is requested.

I have the honor to be,

Sir,

Your most obedient servant,

(Sd.) B. Ramaswamaiya,

Muzrai Commissioner.

676 25-2 243

GEN. & REV. SECTT. 5 FEB 1926 MUZRAI

GEN. & REV. SECTT. 4 FEB. 1926 G. D. SECTION.

KSR

No. C 855 / 25-6

Copy of the above is forwarded with compliments to the - Secretary to Government, Revenue Department, for kind information.

2. A copy of the decree and the Judge's order in the suit -- received from the Public Prosecutor are sent herewith.

3/2/26

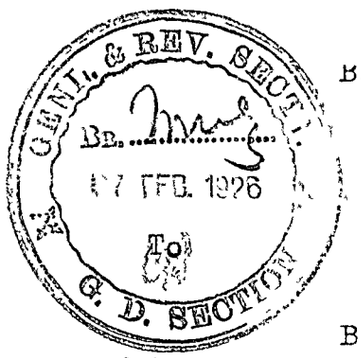
for Muzrai Commissioner.

Absent from Station on Tour.

KSR.

Office of the Muzrai Commissioner in Mysore.

Dated Bangalore, 16th February 1926.



From

B. Ramaswamaiya, Esq., B.A., B.L.,
Muzrai Commissioner in Mysore,
Bangalore.

D. 943
Muz. 213-25-3

To

B. Srinivasa Iyengar, Esq., B.A., B.L.,
Secretary to the Government of
His Highness the Maharaja of Mysore,
Revenue Department.

Sir,

In continuation of this office Memo C.No.855/25-26 dated the 4th Instant, I have the honor to send herewith copies of pronotes and plaint in O.S.No.93 of 19-20 on the file of the Sub-Court, Bangalore against the late Swamigalu of the Sri Avani Matha. The Public Prosecutor, Mysore, intimates that the execution case stands adjourned to the 18th Instant. He has been requested to obtain a further adjournment owing to the shortness of time.

I have the honor to be,
Sir,
Your most obedient servant,

for Muzrai Commissioner.
(absent on casual leave)

KSR.

5th Encl one
25-26

Office of the Muzrai Commissioner in Mysore.

Dated Bangalore, 24th February 1926.

25-26

From

B. Ramaswamaiya, Esq., B.A., B.L.,

Muzrai Commissioner in Mysore,

Bangalore.

GEN. & REV. SECRETARIAT.
26 FEB 1926
MUZRAI

GEN. & REV. SECRETARIAT.
Muz
Bn. To
G. D. SECTION

D 173
Muz. 21-25-4

To

R. Srinivasa Iyengar, Esq., B.A., B.L.,

Secretary to the Government of

His Highness the Maharaja of Mysore,

Revenue Department.

Sir,

D.943

In continuation of this office letter C.No.855/25-26 dated the 16th instant, in the matter of the Ex.Case No.2544/24-25 on the file of the Sub Court, Bangalore, I have the honor to forward herewith copy of letter dated the 22nd Instant from the Public Prosecutor, Bangalore, intimating that the case is posted for the 19th March for filing objections and to request that the opinion of the Legislative Secretary to Government may kindly be obtained and communicated early, as it is reported that no further ------ adjournments will be possible.

I have the honor to be,

Sir,

Your most obedient servant,

B. Ramaswamaiya

Muzrai Commissioner.

KSR.

pls

Letter dated 22nd February 1926 from the Public Prosecutor, Bangalore Division to the Muzrai Commissioner in Mysore.

Re: Ex No.2544 of 24-25 Sub Court, Bangalore.

"I have the honor to inform you that this case is posted for the 19th March for objections if any and that further adjournment is not possible. I request you to settle the matter in the meanwhile so -- that the statement of objections if any may be filed on the next date of hearing."

"C o p y"

for Muzrai Commissioner.

KSR.

Ted file

25 bills D-943
~~to~~ sent to Lodge
Division on 8/27/26.
This may be sent
in early for being
placed in Ted file.

1/30/15 26. 3 1/3
L. L. Scott)

APP. F. VI. 61.]

SUBJECT.....

Section Inward

File No. 213-25

Seria No. 5

Diary No. of letter replied to.....

No. 1197

To The Mag cr

General and Revenue Secretariat

( )

the *192*

Date of issue 18. 3. 26

igned by Mr N.

Sir,

With reference to Jour Letter No. C. 858 of 25-26 & 25-2-26 on the matter of the Ex: Case No 2544 of 24-25 on the file of the Sub Court, Bangalore regarding the execution proceedings against the movable property, I am directed to state that the Collector is of opinion that the Govt.

List of enclosures.....

Copied by.....

Examined by.....

over

The decree is against both parties
as well as against the property
in the matter. It is an Ex parte decree.
Unless it is set aside, there is
no chance to dispute the
allegations in the Plaint.
Learn thereby of opinion that
an attempt may be made
to have the decree set aside
P.P. may be instructed to
"file the necessary application"

Learn Hesford
Request for
take necessary action & report
result thereof indicating

18/3

Shown to
L
18/3.

Reader

X/18/3

86

1200-1/dlms-213-25 - 18/3 VK

Copy forwarded to the
Dy Commr (Dev) x P. for Bengali translation
for use in municipalities
& c.

Action 18

Reader

Office of the Muzrai Commissioner in Mysore.

55725.26
one

Dated Bangalore, 31st August 1926.
2 Sept-

From

B. Ramaswamaiya, Esq., B.A., B.L.,
Muzrai Commissioner in Mysore,
Bangalore.

D33x-
213-26

AV 415

C. Ranganatha Rao Saheb, Esq., B.A., B.L.,
Secretary to the Government of
His Highness the Maharaja of Mysore,
Revenue Department.

Sir,

With reference to your letter No.1199/M.F.213-26-5 --- dated 18th March 1926 in the matter of setting aside the ---- decree against the Avani Matha, I have the honor to forward herewith for favour of information copy of letter dated 21st August 1926 from the Public Prosecutor, Bangalore, intimating the present stage of the case.

A.

I have the honor to be,
Sir,
Your most obedient servant,

B Ramaswamaiya

Muzrai Commissioner.

SM

d 21st August 1926 from the Public Prosecutor, Bangalore Commissioner in Mysore.

"In reply to your letter No.170 dated 29th July 1926 I beg to state that in his No.1199/Muz.213-25-5 dated 18th March the Secretary to the -- Government Revenue Department directed me to file in court the necessary application to set aside the exparte decree. Accordingly an application and vakalat were prepared and sent to you for signature, which was thereafter sent to the Deputy Commissioner Kolar for his signature. The signed application and vakalat were received to my address on 3-4-26 during my -- absence in court. The application could not, therefore, be filed on that day which was the last working day before summer recess. It was duly -- filed in court on the reopening day i.e., 17-5-26.

The case is now posted to 7-9-26 for arguments."

"C o p y"

Muzrai Commissioner.

APP. E. VI. 61.]

SUBJECT.....

Diary No. of letter replied to.....

General and Revenue Secretariat

( )

the 192

Date of issue 17-9-26

Signed by Navarchician Mudaliar

List of enclosures .....

Copied by.....

Examined by.....

Section Mes

File No. 213-23

Seria No. 7

No. 515

To The Juez Conc.

Sir,

Adverting to correspondence ending with your letter No C. 856 of 2-9-1926 Submitting the Public Prosecutor's letter intimating that the ~~Stage of~~ Avani Mats Case stands posted to 7th Feb 1926 for arguments, I am directed to request that you will be so good as to ascertain and intimate the result of the hearing.

I have etc.

(Sd) J. Ramsden
14/

Secretary

over

No. C.859 25/6. Office of the Muzrai Commissioner in Mysore.

Dated Bangalore, 5th October 1926.

REV. SECRETARIAT 7-OCT 1926 MUZRAI

From

C. S. Balasundaram Ayer, Esq., B.A.,

Muzrai Commissioner in Mysore, C 479

Bangalore. Muz 213-25-8

N. & REV. SECTT. Muz 6 - OCT. 1926 G. D. SECTT.

To

B. Srinivasa Ayengar, Esq., B.A., B.L.,

Secretary to the Government of

His Highness the Maharaja of Mysore,

Financial Department.

Sir,

With reference to the correspondence ending with your letter No.515/M.F.213-25 dated 17th September 1926 regarding the decree against the Swami Matha, I have the honor to forward herewith for the information of Government copy of a further communication received from the Public Prosecutor, Bangalore, intimating the present stage of the case.

I have the honor to be,

Sir,

Your most obedient servant,

for Muzrai Commissioner.

(absent from Station)

Letter dated 2nd October 1926 from the Public Prosecutor, Bangalore Division to the Muzrai Commissioner in Mysore.

"With reference to your No.C.855/25-26 of the 29th ultimo in the matter of setting aside the decree against the Avani matt, I have the honor to inform you that the case which was for hearing on the 7th ultimo was posted to the 28th ultimo and reposted to the 2nd of November as the 28th September happened to be a holiday. The decree holder who offerred to compromise the matter was given a letter to approach the Deputy Commissioner Kolar on the subject."

"C o p y"

for Muzrai Commissioner.

No. 2576 Office of the Muzrai Commissioner in Mysore.

Dated Bangalore, 9th December 1926.

To

SEC. TO GREV SECY. TO GOVT.
13th
MUZRAI
D794
Muz 213-25-9

From

C. S. Balasundaram Iyer, Esq., B.A.,

Muzrai Commissioner in Mysore,

Bangalore.

To

B. Srinivasa Iyengar, Esq., B.A., B.L., 1734

Secretary to the Government of

His Highness the Maharaja of Mysore,

Financial Department.

Sir,

In continuation of this office letter C.No.855/25-26 dated 5th October 1926 re setting aside the decree against the Avari Matha in O.S. No.93 of 1919-20 on the file of the Sub Judge's Court, Bangalore, I have the honor to forward herewith copy of letter No.A.2-c-589/26-27 dated 3rd December 1926 from the Deputy Commissioner, Kolar District, and to state that the view taken by the Deputy Commissioner and the case cited by him seem to be applicable in the present instance. I request you to be so good as to kindly consult the Legislative Secretary to Government about the applicability of the Privy Council decision and cause necessary instructions to be issued to the Public Prosecutor, Bangalore, whose services have been engaged to contest the execution petition.

I have the honor to be,

Sir,

Your most obedient servant,

CS Balasundaram Iyer

Muzrai Commissioner.

IN MYSORE.

Bangalore, 27th January 192 7

FROM

C. S. Balasundaram Iyer, Esq., B.A.,

MUZRAI COMMISSIONER IN MYSORE.

GEN. & REV. SECTT. DE To 29 JAN 1927 G. D. SECTION

GEN. & REV. SECTT. 29 MUZRAI D 10444 Muz. 213-25-7

To

R. Srinivasa Iyengar, Esq., B.A., B.L.,
Secretary to the Government of His
Highness the Maharaja of Mysore,
Financial Department.

SIR,

Muz-25

In continuation of this office letter C.No.855/25-26 dated 10th December 1926 re execution of a decree in O.S.No.93/19-20 on the file of Sub-court Bangalore, against Timayya Hatha, I have the honor to forward herewith copy of a further communication No.A-2 C.799/26-27 dated 22nd January 1927 together with a copy of its enclosure received from the Deputy Commissioner, Kolar District, intimating that the court is urging for the return of the warrant of attachment along with the amount attached for payment to the decree-holder and to request you to be so good as to let me know whether necessary, instructions were issued to the Public Prosecutor, Bangalore and if so, to be favoured with a copy of the Legislative Secretary's opinion in the matter. If instructions have not been issued, I request the favour of immediate orders in view of the urgency pointed out by the Deputy Commissioner.

A copy of the letter addressed to the Public Prosecutor dated is enclosed for kind information.

I have the honor to be,
Sir,
Your most obedient servant,

C S Balasundaram Iyer
Muzrai Commissioner.

Letter No. A.C.589-26-27 dated 22nd January 1927 from the Deputy Commissioner, Kolar District to the Muzrai Commissioner in Mysore.

I have the honor to invite reference to this office no.A. C-C.589-26-27 dated 4-12-26 re: the prohibitory order in the Court of the Sub Judge at Bangalore in the execution of a decree in O.S.94/19-20 on the file of the said court against the late Swami of Sri Avani Matt and to request the favour of early instructions in the matter as the Subordinate Judge has been insisting upon the return of the warrant of attachment with due endorsement of service along with the amount attached (Viz.4,868 1-0) for payment to the decree holder. Copy of his letter No.1006 dated 7-1-27 is sent enclosed for reference. The action to be taken by me at this stage may kindly be intimated at a very early date.

2. In this connection, it may be added that unless the view expressed in this office letter referred to above, by my predecessor Mr.S.Hiriyanna in the light of the Privy Council's decision as regards the tenure of the liability to attachment of the belongings of the Matt after the demise of the Swami, is strongly urged before the Court and the decree got set aside there is every likelihood of the limited resources of the Matt being fully drained by the other creditors of the Matt who have been watching the result of the decree in question. Favour of very early reply is solicited.

"C o p y"

Muzrai Commissioner.

Letter No. 855/26-7 Dated 27th January 1927 from the Muzrai Commissioner in Mysore to the Public Prosecutor Bangalore.

" With reference to correspondence ending with your letter dated 2nd October 1926 in the matter of setting aside the decree against the Avani Matha, I have the honor to request to be informed as to how the case which had been adjourned to 2nd November 1926 was disposed of and whether the decree holder who offered to compromise by paying a portion of the amount decreed in favour of the Deputy Commissioner with his promissory note for the balance from the [illegible] in this office for the Deputy Commissioner it is gathered that that officer is not agreeable to the acceptance of any such offer being made by this Department. As however, the amount is required to the return of the current of assessment along with the amount required for payment to the decree holder, I request to be informed whether it will not be possible to move the court not to proceed with the execution proceedings till after the disposal of the application to set aside the ex-parte decree.

The matter may be kindly expedited as much as possible as the amount is urgently required for payment to the assessee."

Copy.

Muzrai Commissioner.

Letter No.1006 dated 7-1-27 from the Subordinate Judge, Ba
Deputy-Commissioner & Distrcwa Mzrai Offiber, Kolar.

I have the honor to request that the warrant of attach
of money in Ex.Case No.2544 of 24-25 sent to your office may kindl
returned with due endorsement of service along with the amount atta
for payment to the decree holder.

" C o p y"

Muzrai Commissiorer.

SUBJECT.....

.....

.....

Diary No. of letter replied to... ... .

General and Revenue Secretariat

( )

the *192*

Section

File No.

Serial No.

No. 13886

To The S.P.V.

Ramnad

Sir, With reference to your letter No. 2566/Mis. on the subject noted under reference I am directed to remind you of the instructions given to you by the Govt to search to find out whether any persons connected with the above case and your promise to make a communication to him and to enquire when your communication may be received.

I am Sir

over

Issue... ... ... 3/2/27

... M' Jos

an 8.1.27

List of enclosures.....

Copied by.....

Examined by.. .....

WD 01265—GPB—31,000—24-12-25

enemies which action
has been taken by you
pursuant to Mysore Commissioners
letter No. F 557/26 dt. 27.1.27.

An immediate reply is
required

Yours etc

25/2

SUBJECT.....

.....

.....

Section Mis

File No. 213-25

Serial No.

No. 1530

Diary No. of letter replied to.. .....

To

The Public Prosecutor

Bangalore.

General and Revenue Secretariat

( )

the 192

Sir, In re Ex case No 2544 of 24-25 regarding the Sri Arasu matt on the file of the Sub. Judge, Bangalore

I am directed to inform you of the instructions given to you on 8.1.1927 by the L & L Secty. Govt in connection with the above case, and to request that you ~~will be so good as~~ to kindly send up your reply ~~thereto at an~~ early. ~~Date by which was called for in the marginally noted~~ letter & Govt

Date of issue..... 15.2.27

Signed by... M. V. Lingam

✓

D 3886 dy 3/2/1927

List of enclosures.....

Copied by.....

Examined by.....

have ele

over

for Secty

M. RAMASWAMI
BAR
PUBLIC PROSECUTOR
BANGALORE DN.

No. 123

Bangalore
19-2-27.

GEN. & REV. SECRETARIAT
22 FEB 1927
MUZRAI
D 1188

The Secretary
Govt of Mysore
Financial Department

Muz. 213-25.

Re Cr case No 44 of 24-25 Subedar Appa Bhanu Naik
Mus 256 of 25-

In reply to your letter No 1530/Muz 213-25 of 15th inst I have the honour to state that the executive application on page 8 of 18th to extract for return of warrant of attachment. In the meanwhile I filed a stay application which was heard on 18th and is now posted to 11-3-27 for the objection of the decree holder. The result of the same will be duly intimated. The above civil application for setting aside the exparte decree is adjourned to 16-5-27 for evidence.

I have the honour to be
Your most obedient servant
M Ramaswami

DPC
3464

S/2

The file has been sent to Mughrabi branch. The branch may be asked to return the file later
23.2.27

To the Supdt Mughrabi
with compts

28/2

G.R.S. III—3]

Routine Notes.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

RAMASWAMI M.A. B.L. PUBLIC PROSECUTOR

No 122

Bangalore
19-11-27

3810
P 826

To
The Law Secretary
Government of Mysore

Re F 2566 27-28
Revn 254 27-28

With reference to your letter P 3886 dated 3-11-27, I beg to state that a recent application was posted 4 1/2 days back for return of warrant of attachment. In the meantime I filed a stay application in the recent proceedings which was heard yesterday and is now adjourned to 11-3-27 for objections of the decreeholder. The result of the same will be duly intimated.

The above was application for the setting aside of the ex parte decree is adjourned to 16-5-27 for evidence. I shall also duly intimate of the progress of the Financial Secretary.

and the Mysore Commissioner.

Yours
Ramaswami
Public Prosecutor

N.B.—Should routine notes be written on small slips, the notes must be copied, or slips pasted on this form

Routine Notes.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

be written on small slips, the notes must be copied, or slips pasted on this form.

OFFICE OF THE MUZRAI COMMISSIONER
IN MYSORE.

Bangalore, 24th February 26 *192 7.*

FROM

P. G. D'Souza, Esq., B.A., B.L.,
MUZRAI COMMISSIONER IN MYSORE.

GEN. & R... Stmat... DIARY
MUZRAI
D 1231

To

B. Srinivasa Murthi, Esq., B.A., B.L.,
Secretary to the Government of His
Highness the Maharaja of Mysore,
Bangalore.

SIR,

In continuation of this office letter No.G.Ser/25-27 dated --
2nd February 1927, I have the honour to forward herewith copy of --
letter No.104 dated 17th February 1927 from the Public Prosecutor,
Bangalore, intimating that the Tax Collector as in the case of Ayani
Sahib is entitled to get his expenses paid at the rate of
annas six per mile by him and that in the 10th Instance all
expenses of the Amanatdar will be borne by the Muzrai Department.

I have the honour to be,

Sir,

Your most obedient servant,

Muzrai Commissioner in Mysore.

Letter No.134 dated 19th February 1927 from the Public --- Prosecutor, Bangalore Division to the Mysore.

--- - - -.

Re Cr.2544 of 24-25/Cr.354 of 25-26 against Avani Matt.

The execution application was posted to the 13th instant for return of attachment warrant. In the meantime I filed a stay -- application which was heard and now post I for the orders of the decree holder to 11-3-27. The result of the same will be intimated in due course. The mis. application for setting aside the ex parte decree is adjourned to 26-2-27 for evidence."

Copy

for Mysore Commissioner.

4177
P 82

GEN. & REV. SECRETARIAT. 18 MAR 1927 MUZRAI

MEMORANDUM

From

The Public Prosecutor
Bangalore Division

MUZRAI
D 13/24
Muz. 213-25

To

The Secretary,
to the Government of Mysore
Law Department
Bangalore.

GEN. & REV. SECRETARIAT. 14th March 1927.

Re: Avani mutt case.

The execution case against Avani mutt was taken up on Friday the 11th inst and the decreeholder prayed for further time for filing objections to our stay application It was represented to the court that the application for setting aside the ex parte decree is posted for evidence for 26-5-27 and that both the applications may be heard together and decided The Court adjourned this case to 26-5-27. The warrant of attachment that is sent to the Deputy Commissioner, Kolar may be simply returned to the Court as unserved A letter to the same effect has been sent to the Deputy Commissioner, Kolar.

I have the honour to be,
Sir,
Your most obedient servant.
[Please reply overleaf]

W D110—3PB-100 ms—2 1 26

MEMORANDUM

Reply From

To

G. R. S.-III—3]

ROUTINE NOTES.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

This may be sent to the Surgical Branch for note. The photographs are there

Sinha
16/3

Surgical Br

N. B.—Should routine notes be written on small slips the notes must be copied, or slips pasted on this form

G. R. S. III—3]

ROUTINE NOTES.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

N. B.—Should routine notes be written on small slips the notes must be clipped or slips pasted on this form.

SUBJECT.

Section Miz.

File No. 213-25

Serial No.

No. 2341 14

Diary No. of letter replied to.....1314.....

To

The Public Prosecutor,
Bangalore

General and Revenue Secretariat
( )
the *192*

Sir,

Date of issue.....13-6-27.....

Signed by.....M. Venkatesa Ayyar

I am directed to invite
reference to your letter of
the 14th March 1927 re Ex
case no. 2544 of 24-25 regar
ing Sri Anani matt on the
file of the Sub. Judge, Bangal
and to request you to kind
send a reply as to the
The case was heard o
27th May 1927 and ~~it~~
how it was disposed o

List of enclosures.....

Copied by.....

Examined by.....

I have th

over

WD 01265—GPB—31,000—24-12-25

Bangalore
5-7-1927

To

269/6/7/27

The Secretary,
Financial Department,
Govt. of Mysore,
Bangalore.

GEN & REV SECTT. 7 JUL 1927 MUZRAI 18

Muzrai 213-25

Sir,

Re: Ex. 2544 of 24-25
mis 354 of 25-26. Against Aswanimutt

In reply to your No 2341 / Muzrai 213-25 dated 13th June 1927 I have the honor to state that I had intimated the Deputy Commissioner in my letter No. 194 dated 21-5-27 that as I would be absent unless on Sessions Mr. P.S. Lakshminarasu, B.A., B.L. Advocate conduct the case on my behalf and that the clerk can would be sent to give instructions and attend Court to give evidence. The answer did not attend Court on account of some ceremony & Court did not consider this ground as sufficient to grant further time and dismissed the application to set aside the ex parte decree. I have applied for a copy of order will submit as soon as it is received

I have the honor to further state that this application set aside the ex parte decree having been filed long in the expiry of 30 days allowed by law cannot be maintained as the Court is not authorised to excuse the delay

over Settlement

WD 01265—GPB—31,000—24-12-25

I have been given to understand that the party
illing to forgo a small sum out of the decreetal amount
f you have no objection I shall ascertain from
dvocate for the ~~other side~~ decreeholder the terms on which
repared to come to a settlement.

I have the honor to be,
Sir,
Your most obedient Servant

A Lakshmipathi
Public Prosecutor
Bangalore

SUBJECT.....

.....

.....

Section Mis

File No. 23-25

Serial No.

No. 106.

Diary No. of letter replied to.....

General and Revenue Secretariat

the *192*

Date of issue 18-7-27

Signed by Mr M. Venkatesa Iyengar

List of enclosures.....

Copied by.....

Examined by.....

To

The Public Prosecutor,
Bangalore,

Sir,

Adverting to correspondence ending with your letter no. 5°, 27-28 of 5th July 1927, stating that the application to set aside the ex-parte decree in Sri Anani ~~the~~ case was dismissed, and requesting instructions as to whether ~~he~~ you may [illegible] appear from the Advocate for the decree holder the terms on which he is prepared to come to a

over Settlement,

I am directed to convey
approval (My suggestion) under the circum-
stances of the case, ~~to the~~
~~suggestion made in the last~~
~~para of your letter~~ Govt. regd.

I have ch

89
9/7/27

Asst Sec

I They are appli
to set aside the decree
after the prescribed

Asst Sec

No 107 S 18-7-27.
Govt. Sec
Copy to the Insp
Govt. in Mysore -
OB -

with copy of the P P's letter -
The Dy Comr Hdqrs should be
asked to report why the
Govt concerned ~~absented~~
himself from ~~Court~~ Court did not
attend the Court on the
given dates -

Asst Sec

89
15/7/27

G.R.S. III—3]

Routine Notes.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

MEMORANDUM

From The Public Prosecutor, Bangalore Division

To The Financial Secretary to the Government.

FINANCIAL SECRETARIAT
17 JAN. 1928

MUZRAI 15th January 1928.
D920 16

Jmg 215-25-13

Sir, 1028 K

In reply to your letter No 1028 dated 19-12-27 I have the honour to state that the Deputy Commissioner Kolar who succeeded to the management of the Avani mutt became aware of the exparte decree passed in the suit in October 1925 when the notice of execution was served on him, and as such the application to set aside the exparte decree should have been filed within 30 days from the date of such knowledge. The course to be adopted in the case was apparently under correspondence between the various departments before the decision of the Government to file the application was

W D 1745—GPB—150 Reams—2-3-27

[Please reply overleaf

N B.—Should routine notes be written on small slips, the notes must be copied, or slips pasted on this form.

MEMORANDUM

Reply from | *To* | *192*

intimated to me in copy of the letter to Mufrai Commissioner no 1199/213-25-s. dated 18th March 1926 The application was received back duly signed on the last working day before the summer recess and the same was filed into Court on the reopening after the recess.

I have the honor to be,
Sir,
your most obedient Servant

CMaruaswamy

Public Prosecutor,
Bangalore

VI. G1J

SUBJECT.....

.....

.....

Section Mez

File No. 213-25

Serial No. 17

No. 1164.

Diary No. of letter replied to.....

General and Revenue Secretariat

( )

the *192*

To The Muz. Court.

Date of issue 23/11/28

Signed by M. Venkatappa Gupta

Sir,

I am directed to in reference to this office No. 107-Muz-213-25 dt 18.7.27 forwarding a copy of the R.R.'s letter of the same date addressed to the P.Pr., Bangalore, calling for certain information re the ex-parte decree in Sri Anani Mall case, and to request a very early reply thereto.

I have the

List of enclosures.....

Copied by .....

Examined by .....

over

Sd/- Illegible

Sd/- 29/11/28

WD 0325—GPB—80,000—26 5-27

Office of the Muzrai Commissioner in Mysore.

Dated Bangalore, 24th January 1928.

From

P. G. D'Souza, Esq., B.A., B.L.,
Muzrai Commissioner in Mysore,
Bangalore.

FINANCE & REV SECRETARIAT
28 JAN. 1928
No. 10805

To

P. Srinivasa Iyengar, Esq., B.A., B.L.,
Secretary to the Government of His Highness the Maharaja of Mysore,
Financial Department.

FINANCE & REV SECRETARIAT
30 JAN 1928
MUZRAI
2986

Sir,

With reference to your memo No.107/M.F.213-28 dated 10th July 1927 forwarding copy of letter addressed to the Public Prosecutor, Bangalore Division, regarding O.S.No.93 of 1920/Ex.No. 2514 of 1924 on the file of the Sub-Court at Bangalore regarding the late Swamigal of the Sri Ahobila Matha, I have the honor to forward herewith copy of letter No.A2-S.4[illegible]/26-27 dated 27th November 1927 together with its enclosures received from the Deputy Commissioner, Kolar District, explaining fully the circumstances in which the application to set aside the Ex-Parte Decree was filed after the prescribed time and why the Clerk appeared in person from the Court on the date of hearing.

2. In view of the responsibility thrown on the Senior Public Prosecutor in the explanation submitted by the Clerk ----- Srinivasa Rao, the Public Prosecutor was requested to state what his Junior had to say in the matter. Mr. Lakshminarayana's letter dated 3rd January 1928 enclosed in the records explains the ---- circumstances under which he permitted the Clerk to act in the matter and how the Decree-holder's advocate opposed the petition for adjournment when the case was called. The Public Prosecutor further states that the Clerk was merely summoned to explain the delay in the filing of the application to set aside the Ex-Parte decree but as the law does not provide for the condoning of such delay, the adjournment of the case would not have affected the decision of the Court.

In the above circumstances it seems to me that no further ---

2/-

C. 31/26- 7 dated 27th November 1927 from the
ssioner, Kolar District to the Muzrai Commissioner(n

"With reference to your Mem No.C.815 of 25-26 dated 26-7-27 enquiring why the application to set aside the Ex-parte decree in Sri Avani Matt case was filed after the prescribed time and etc., I have the honor to state that the existence of the Decree came to my notice of the then Deputy Commissioner, when a notice in Ex.case No. 2544/24-25 was received by him on 15-10-25 wherein Matt and its properties had come over to his management. Immediate prompt and earnest attempts were made in consultation with the office of the Public Prosecutor to contest the claim in the interest of the Matt and with reference to the opinion of the Legal Adviser and Secretary and the filing of the application to set aside the ex-parte decree, an application was filed on 17-5-26 by the Public Prosecutor and the same was dismissed by the Court on the date of hearing i.e. 7.2.1927. It was then decided since that the matter should be settled amicably and that the Public Prosecutor has been authorised to settle with the Decree-holders in the matter.

2. As regards the non-appearance of the clerk in the Court on the date of hearing, I am enclosing herewith the explanation of the clerk concerned. The practice of the Public Prosecutor is to the effect that the clerk should go with the connected records to give instructions. (vide copy of his letter No.194 dated 21- -27 enclosed). The clerk had, therefore, no instructions from the Deputy Commissioner in the matter of giving evidence. The Public Prosecutor has, however reported to Government that the clerk was sent for to give instructions and attended court to give evidence, which is contrary to what is to be reconciled with his declaration to this office. Be it so, if the Court had considered any evidence for the Deputy Commissioner to plead, summons would have been issued from the Court. The clerk says that the Junior of the Public Prosecutor permitted him to go home from his office and on his assurance the clerk went home. In this connection reference was made to the Public Prosecutor from whom reply is awaited. The application itself being barred by time, the evidence of the clerk, even if it had been given on the date, it may, may, improved the position. I am of opinion that the Deputy Commissioner ----

194 dated 21st May 1927, from the Publi
alore Division, to the Deputy Commissioner, Kolar D

- - - - -

Re: case against Avani Mutt.

I have the honor to inform you that this case is posted fo
26th instant for evidence and to request you to send the clerk con
with the file to my office on the 26th instant for giving me instru
As I will be away in Tumkur in connection with Sessions work I have
nstructed my Junior, Mr. P.S.Lakshminarasu, P.A., B.L., Advocate to
ttend to this case.

"C o p y"

For Muzrai Commissioner.

ll be seen from the Public Prosecutor's letter No.194 dated
e 21st May 1927 (enclosed in the file) that he wanted a clerk to be sent to Bangalore for giving instructions to his Junior Advocate, as he would be absent at Tumkur on account of Sessions. The Deputy Commissioner ordered that the concerned clerk should go at once to Bangalore for the above purpose. In obedience to that order I went to Bangalore with all the available papers connected with the case and saw the Public Prosecutor's Junior in his office at Chikpet on the morning of the 26th May 1927 and gave him the file of papers taken by me. Having gone through the file of papers, he expressed that in all probability the application for --- setting aside the ex-parte decree against the Sri Avani Matt may be -- dismissed by the Court in as much as the application was filed long after the time allowed by law. He did not therefore, want to take the ----- responsibility for the result and said that he would move for a short adjournment so that his Senior might return from Tumkur Sessions and to take up the case himself. He then told me that I need not attend the court that day and that I may attend to my father's ceremony which was - to be performed that day. It is on this assurance from the Junior that

that I ~~went~~ went home.

It is not true to say that I was required either by the Public Prosecutor or his Junior to attend the Court on that day. Having been in touch with the connected correspondence for the last one year and being fully alive to the importance of the subject I would certainly not have committed default, if I had been required to attend court as stated by the Public Prosecutor, knowing full well what the consequences would be if I did so."

Dated 11-7-1927.

(Sd.) E. Sreenivasa Rao,
Clerk.

"C o p y"

For Muzrai Commissioner.

Letter No. Nil Dated 3rd January 1928 from Mr. P.S. akshminarasu, Advocate to the Public Prosecutor, ------ Bangalore Division, Bangalore.

Re: Sri Avani Mutt Case : Mis. 354.

You requested me to conduct the above case on the 26th May 1927. The Clerk Mr.B.Sreenivasa Rao came to the office on the 26th morning and informed me that as he had to perform a ceremony at home in Kolar that he might be excused from attending the court. I told the Clerk that an adjournment would only be possible if the Advocate for the Decree-Holder consented in Court to such an ---- adjournment. The Clerk after returning from the Advocate for the Decree-Holder ~~consented~~ assured me that he would consent to an adjournment. I allowed the clerk to ----- return to Kolar to attend the ceremony. When the case was however called, my motion for adjournment was ------ opposed by the Decree-Holder's Advocate and the case was dismissed.

" C O P Y."

For Muzrai Commissioner.

OF MUZRAI COMMISSIONER IN MYSORE,

Bangalore... 3th..August.....1928.

14.

SECRET. SECRETARIAT
15 MUZRAI
9272

Mug 213-25=14

FROM

P. G. D'Souza, Esq., P.A., P.L.,
The Muzrai Commissioner in Mysore.

To

P. Srinivasa Iyengar, Esq., P.A., P.L.,
Secretary to the Government of His
Highness the Maharaja of Mysore,
Financial Department.

SIR,

Referring to para 3 of this office letter No.355/24-26 dated - 26th January 1928 re ex-parte decree in the Avani Matha case, I have the honor to state that the Public Prosecutor instructs in his letter dated 3rd August 1928 that he approached Mr. Vamana Murti, Advocate - for Decree-holder, and that the latter is prepared to forego Rs.500 on his own responsibility, if the interest is calculated up to date - and the balance is paid in cash in lump-sum. The decree in O.S.No.92 of 1920 was passed on 26th September 1921 for a sum of Rs.3256-0-0 -- plus costs amounting to Rs.276-12-0, interest at 6% per annum being -- also allowed from the date of decree into the date of realization. The costs subsequently incurred by the decree holder in opposing the mis. application and in executing the decree have also to be added.

The Sub ordinate Judge of Bangalore while stating that the ex- case stands adjourned to 17th August 1928 requests that the amount -- attached may be caused to be sent on or before that date.

2. From the authenticated copies of the Pro-notes enclosed in the records it will be seen that the late Swamigalu of the matha borrowed a sum of Rs.1600/- on 13th May 1917 and Rs.400/- on 4th May 1917, the former carrying interest at the rate of 6% and the latter at 9% per annum. The former was borrowed for buying an elephant and the latter for expenses of the matha. The decreetal amount thus consists of

of Rs.2000/- Principal

1256/- Interest (excluding the sum of Rs.144 said to have been paid by the Swamigalu.)

Summons and notices were served on the matha and in the absence of the Swamigalu or his accredited agent judgment was passed ex-parte.

3. The mis-application filed by the Deputy Commissioner of the Kolar District for setting aside the Ex Parte decree passed in the original suit was dismissed on the ground that the allegations made by him were not proved.

4. The application to set aside the exparte decree was made at a time when there was no Swami and when Government were managing the affairs of the matha and its endowments under clause (2) of section 25 of the Mysore Reg Religious and charitable Institutions Regulation (VI of 1913

As there is now a swami whose succession to the Peeta has been recognized by Government, the question arises as to whether he should not be made a party to the execution proceedings and given an oppotunity to contest the claim of the decree-holders which has been adjudged exparte.

Then again, there arises the further question as to whether the loans were contracted for bonafide matha purposes and for justifiable -- reasons and whether they are binding upon the successors of the lat Swamigalu and whether the money now in the hands of the Government which solely consists of income derived from Devadaya grants made for the--- support of the matha and services therein can be attached in satisfactic of a civil court decree.

4. In Vidyavarudhi Thirtha Swamigalu VS. Balasami Iyer and others. Their Lordships of the Privy Council have held that "Whilst a Dharmakart of a temple who has specific duties to perform might be regarded as a -- Trustee, the Superior of a Matt is not a Trustee but a life tenant" and that "according to the well-settled law of India ..... a mohunt is incompetent to create any interest in respect of the Matt property to endure beyond his life."

Again in vibhudapriya Thirtha Swami VS. Lakshmivara Thirtha Swami Their Lordships have held that the loans contracted by a Swami were binding on the Matt and the successor of the borrower was bound to pay them, --- provided the money was borrowed for defraying the expenses of the worship in the matha and of feeding Brahmins etc. in accordance with ancient -- usage

The bigger loan was raised for purchasing an elephant a useless - luxury upon the finances of the matt were exhausted and the smaller one for no definite purpose and consequently it seems to me that the loans were not contracted for any justifiable and at the same unavoidable expenditure and that they do not come within the purview of the purposes defined in the latter decision of the Privy Council.

5. Having regard to the above and of the fact that the exparte decree is for a fairly large amount and that the matha in its present financial condition is unable to meet the demand and that the terms offered by the advocate are not adequate, I am of opinion that the entire matter requires reconsideration at the hands of Government in consultation with the Legal Remembrancer before the requisition received from the Sub -Judge for -- sending the amount said to have been attached can be complied with.

I am strongly of opinion that an application should be made to the court to implead the present Swami and the execution application -- resisted on the ground that the decree cannot be enforced on the properties of the Matt. It is very necessary to take this action as there is a large number of similar cases and if all the claims are to be satisfi the matt will probably have to be closed as all its endowments would have to be sold to meet these claims. It is a great pity that action was not taken in the life time of the last Swami to set aside these alienations

I Submit the matter for the orders of Government.

I have the honor to be,

Sir,

Your most obedient servant,

N Thomas
for Assistant Commissioner
Muzrai Commissioner.
(absent from Station)

SUBJECT.....

.....

.....

Section Lands.

File No. 213 25

Serial No. 15

No. 4/11 Income

file.

Diary No. of letter replied to.....277.....

General and Revenue Secretariat

( )

the *192*

To The Hon'ble .....

Date of issue.....21/8/28.....

Sir,

Signed by.....A.H. Coulthard Jr.....

Adverting to correspondence ending with yr letter no 855 Dy 14.8.1928 reporting with ref. to the ex-parte decree in the Avani Mall case, That as there is now a new swamy at the Head of the Mall, The question arises as to whether he should not be made a party to the ex. pro. and given an opportunity to contest the claim

over

List of enclosures.....

Copied by .....

Examined by .....

WD 0325—GPB—37,000—26 5-27

I am directed to state that the Legal Remembrancer agrees with you that an application should be made to ask the court to make the present Enquiry as a party to the proceedings, and that the P.P. ~~has been~~ was instructed by him accordingly to take necessary action, with written on the ~~adjd~~ date of hearing viz. 19th Aug. 1928.

I have etc

WD/21/8

D(O)/Asst. Secy.

Copy to P.P. Bombay,
for similar action in the appeal taken by the
B.O. The matter may kindly
be intimated.

WD/21/8

D(O)/Asst. Secy

OFFICE OF THE MUZRAI COMMISSIONER IN MYSORE,

Bangalore, 24th August 1929.

No. 855 Enq 25-6

27 AUG 1929 MUZRAI

FROM

A. K. Syed Taj Peeran, Esq., B.A.,
The Muzrai Commissioner in Mysore.

R 295

Enq 213-25=16.

To

B. Srinivasa Iyengar, Esq., B.A., B.L.,
Secretary to the Government of His
Highness the Maharaja of Mysore,
Financial Department.

FINANCIAL SECRETARY 26 AUG. 1929 2477

SIR,

With reference to correspondence ending with your letter No.11 Muz.213-25-dated 21st August 1928, I have the honor to submit herewith for information of Government copy of letter No.A2-C.491/26-27 dated 1st August 1929 together with its enclosure received from the Deputy Commissioner of the Kolar District, stating that the Public Prosecutor has been requested to contest the application by the Decree-holders in Ex-case No.2544/24-25 to bring on record the present Swamigalu of the Sri Avani Matha.

I have the honor to be,
Sir,
Your most obedient servant,

R. Narasimha Ayyangar.
for Muzrai Commissioner.
(absent from Station)

t 1929 from the Deputy
ai ommissioner in Mysore.

- - - - -

I have the honor to forward herewith for your information a copy of letter of date to the Public Prosecutor requesting him to contest the application by the Decree holders in execution Case No.2544/24-25 to bring on record the newly appointed Swami of the Matt.

"C o p y"

For Muzrai Commissioner.

Letter dated the 1st August 1929 from the Deputy Commissioner Kolar District to the Public Prosecutor, Bangalore Division, Bangalore.

With reference to your letter No.26 dated the 20th July 1929, regarding the Ex.2544/24-25 against Sri Avani Mutt, and stating that the decree holders have filed an application in Court to bring on record the newly appointed Swami of the Mutt and that the case is posted to the 2nd August 1929 for hearing, I have the honor to invite a kind reference to the Privy Council's decision in a case reported in Madras Law Journal Part 12 Vol.XLI(or XII) page 346 relating to Sri Vidyavaruthi thirtha - Swamigalu Vs. Balaswami Iyer and others wherein the Swamigalu of a Mutt is treated as only a trustee and as such a decree in respect of a -- pronote executed by the Swami cannot be passed against the properties of the Mutt. I request that the application under advertance may kindly be contested on these lines.

"C o p y"

For Muzrai Commissioner.

dix F G—1

SUBJECT.....

.....

.....

Section Mez

File No. 21? - 29

Serial No. A

No. 1268

Diary No. of letter replied to.....

General and Revenue Secretariat

( )

the *192*

To

The Public Prosecutor

Bangalore

Date of issue 30-12-1929

Signed by Mr. T. V. S. Raju

Sir,

I am desired to invite your attention to the Kolar ~~Dept~~ Deputy Commissioner's letter Dt 1st August 1929 requesting your consent the Sri Avani Mutt case on the lines suggested in the matter and to request you to intimate how the matter now stands.

I have etc

for Secy to Govt

Home Affairs

over

List of enclosures.....

Copied by.....

Examined by.....

SUBJECT.....

.....

.....

Section Mis

File No. 213-23

Serial No.

No. 1743

Diary No. of letter replied to.....

General and Revenue Secretariat

( )

the *192*

To

The Public Prosecutor

Batticaloa

Sir

Date of issue 19-2-30

Signed by Asst. T. K. S. [illegible]

I am desired to invite your attention to the Kotahena District Court Circular of 1st August 1929 and this office letter No 1268 of 30-12- requesting you to contest the ex-pauper decree in Sri Avani Nath, ~~Supreme~~ Case on the lines suggested in the matter and to request you to intimate at what stage the matter now stands I have the honour to be over

Sd/- for agent

19/2 WHS 17/2

18/2

List of enclosures.....

Copied by.....

Examined by.....

WD 063—GPB—20,000—1-8-29

18/2

GENERAL AND REVENUE SECRETARIAT

Dated, Bangalore, 1-6-30

Sir,

I am desired to invite your attention to ~~your~~ this office letter No. 412 Mem 213-28-15 dated 21-8-28 and the subsequent 4 reminders. ~~requesting you to intimate~~ the result of action taken in the matter of making the present Avani Mull Seranigale a partee to the ex parte decree in the Avani mull Case and to request that reply thereto may be kindly expedited, as the matter is long pending.

Yours sincerely,

To-- The Public Prosecutor
Bangalore.

FINANCIAL SECRETARY
9 APR. 1930
No. 2

From

The public prosecutor,
Bangalore

GENL & FEV
10 APR 193
1641
MUZRA

To

The Financial Secretary to Government,
General and Revenue Secretariat,
Bangalore

Sir,

With reference to your D.O. 2006 of the 12th instant I have the honour to state that the objection statement on behalf of Swamigalu of Avani Mutt has been filed in court and the case is posted to 23-5-1930 for reply of the Decreeholder to the said objection statement.

I have the honour to be,
Sir
your most obedient Servant,

B. N. Le Fleming
Public prosecutor
Bangalore

GENERAL AND REVENUE SECRETAR

Dated. Bangalore, 31/7/30

U.U.No. 250
Muz.

Dear Sir.

I am desired to invite your attention to your ~~this office~~ letter No. 421 dated 16-6-30 ~~and the subsequent reminders~~ stating that the executin case (44/24-25 ex parte decree against the Sri Arsani Nuth) was posted to 20th ~~instant~~ July 30 for reply of the decree holder to the objection statement.

and to request that ~~a reply thereto~~ the result of the hearing may be kindly intimated.

Yours sincerely,

31.7.30

To--

The Public Prosecutor

Bangr.

Sir applr (

Issue 31.7.30

G. R. S. 45]

FINANCIAL SECRETARY
18 JUN
No

REPLY.

GOVERNMENT OF HIS HIGHNESS
THE MAHARAJA OF MYSORE.

GENERAL AND REVENUE DEPARTMENT.

No. 2865-Muz, dated the 14 6 1930.

No. 421, dated the 16.6.1930.

From

The public prosecutor
Bangalore division,
Bangalore

To

The Public Prosecutor
Bangalore

To

The Secretary to the Government
H. H. the Maharaja of Mysore

GEN. & REV. SECRETARIAT.
19 JUN 1930
2007
MYSORE.

SUBJECT.

Ex. Case No. 2544/24-25
Ex parte decree against Thr Sri
Arsen Matha.

OFFICE MEMORANDUM.

The undersigned is directed to invite attention to the No 352, dated 8-4 marginally noted communication and to request that the General and Revenue Secretariat may be informed, in the column opposite, ~~of the cause of delay in furnishing a reply and~~ of the approximate date on which a reply may be expected.

He is also to request that the General and Revenue Secretariat may be favoured with a reply to this reminder not later than the 25th instant

By order,

M S Krishnamachari
for Fl Secy to Govt

*Previous reminder.

Sir,

With reference to your memo
No. 2865. Muz. of the 14th instant
I have the honour to inform
you that an objection statement
has been filed in court and
it is posted to 20th instant
for reply of the defendant
to the objection statement

I have the honour to be
Sir
Your most obedient Servt

B. N. Rao
public prosecutor
Bangalore

Wait further
orders
18/6/30

Issue
21/6/30

WD 0530—GPB—300,0—22-7-27

OFFICE OF THE ... GOVT
15 AUG. 1930
No. 1102

From B. N. VIJAYA, DEVA, M. A.,
BARRISTER-AT-LAW,
PUBLIC PROSECUTOR & GOVT PLEADER,
BANGALORE DVN.

To
The Secretary to Government
Financial Department,
General and Revenue Secretariat
Bangalore

Dated 11-8-1930

Despatched 11-8-1930

GENL. & REV. SEC.
12 AUG 1930
219
MUZRAI.

Received

General No. 52/30
No.

Enclosure No. Nil

Sir,

Re: Ex 28544/24-25 on the file of the Sub-Judge, Bangalore Execution against Savani mudt.

With reference to your ~~Letter~~ No 280 dated 31st July 1930 I have the honour to inform you that the above case is posted to 29th instant for arguments

I have the honour to be
Sir,
Your most obedient Servant
B. N. Vijaya Deva
public prosecutor,
Bangalore.

2081
Subd for perusal
RS 3/8
H. Secy

13-8-30

1st member (Rev)

18-8-30

Appendix F G—1

SUBJECT.....

.....

.....

Section .....

File No. 213 - 25

Diary No. of letter replied to.....

Serial No. R

No. 698

General and Revenue Secretariat

( )

the *193*

To

.....

Dear Sir,

Date of issue 24-9-30

With reference to your letter no. 2 a/30-7 of 11 the case viz.— Stamp Civil Tax'n 44/24-25 on the file of the Subordinate Magistrate Execution against transmitted to Sp the August 30 for arguments, I am desired to request you to intimate ~~what~~ the ~~date~~ with progress in the matter.

Signed by.....

Send for a copy

18/9/30

18/9

List of enclosures..... 18-9-30

Copied by.....

Examined by.....

WD 02559—GPB—25,000—25/6-30

14/30-B

MEMORANDUM

From

To 25th September 1930.

B. N. VIJAYA, DEVA, M. A.
BARRISTER-AT-LAW.
PUBLIC PROSECUTOR & GOVT. PLEADER.
BANGALORE DVN.

The Financial Secretary,
General and Revenue Secretariat.
Mysore Bangalore

Ex 2544 of 24-25 on the file of the Sub-judge, Bangalore
Execution against Avani mutt.

With reference to your Do. No 698 Mysy. of the 18th instant I have honour to inform you that I have argued the above case on 29/8/30 the case is reserved for judgment.

FINANCIAL SECRETARY
29.9.30

Sub for perusal
GS
6.10.30

Sus

I have the honour to be,
Sir
your most obedient Servant,
B. N. V. Deva.
Public prosecutor
Bangalore
[Please reply on civil side]

WD 2307—GPB—150 Reams—24-4-26

OFFICE OF THE MUZRAI COMMISSIONER IN MYSORE.

Bangalore, 18th November ..... *193* 0.

FROM: Sd/ P. Rajagopalachari, Esq., B.A., B.L.,

Muzrai Commissioner in Mysore.

To

The Secretary to the Government of Mysore,
Financial Department.

SIR,

With reference to correspondence ending with this office letter No. C.855/25-26 dated 26th August 1929 in the matter of contesting O.S. No.93/1919-20/Ex. No.2544/24-25 on the file of the Sub-Court, Bangalore, I have the honor to forward herewith copy of letter No. A2.C.890/30-31 dated 4th November 1930 together with a copy of its enclosure received from the Deputy Commissioner, Kolar District, in the matter and to state as follows:

As instructed in your letter No.411/Muz.213-25 dated 21st August 1928, the Public Prosecutor was requested to move the Court to make the present Swamigalu of Sri Sri Varu Matha, a party to the proceedings and action was taken accordingly. The case coming on for hearing on 27th September 1930, and objection having been taken that the decree did not bind the present Swami or the properties of the Matha, the Court ordered, among other matters, that the opponent cannot question the validity of the decree on the execution side and the execution cannot go behind the decree, that as the relief claimed in the execution application was only against the properties of the Matha, the objection taken to execution was untenable and that the execution should therefore proceed. It has further been ordered that the amount attached should be sent for payment to the decree-holder.

The Judge has also observed that a regular suit to set aside the decree in O.S. No.93/19-20 on account of fraud &c., may be filed, i advised.

The previous history of this case is given in sufficient detail in this office letters of the 23rd January 1926 and 4th August 1928. Now the question for consideration is whether to take the matter in appeal or to file a suit restraining the decree-holder not to interefere with either the cash balance or the properties of the Matha in the hands of the present Managers on behalf of the present Swamigalu for debts contracted by the late Swamigalu. I request that the Legal Remembrancer to Government may be consulted and instructions issued as to the action to be taken in the matter. As repeated requisitions for sending to the Court the amount alleged to have been attached are being received, I solicit early orders in the matter.

I have the honor to be,

Sir,

Your most obedient servant,

J Majagopan

Muzrai Commissioner.

AM/

Letter No. A2.C.890/30-31 dated 4-11-30 from the Deputy Commissio Kolar District, to the Muzrai Commissioner in Mysore.

Subject:- Re: Ex.2544/24-25 on the file of the Sub Judge, Bangalore, against Sri Avani Mutt.

In continuation of my letter No. A.2.C.491/26-27 dated 1st August 19 I have the honor to forward herewith a copy of letter No.155/30-31 dated 28-10-30 from the Public Prosecutor, Bangalore, and to request you to kindly issue necessary instructions whether the Public Prosecutor may be addressed to file a regular suit to set aside the decree in the matter.

The favour of an early reply in the matter is requested.

"COPY"

Yeeraseeja Rau

For Muzrai Commissioner.

Letter No.155/30-31 dated 28-10-30 from the Public Prosecutor, Pangalore, to the Deputy Commissioner and Muzrai Officer, Kolar.

Re: Ex.2544/24-25/O.S.93/19-20 on the file of the Sub Judge, Bangalore.

I have the honor to state as follows:-

In O.S. 93/19-20 on the file of the Sub-Judge, Pangalore, plaintiff Balaji Rau sued the late Swami of Avani Mutt for recovery of the sum of R. 3,250/- due on two pro-notes and obtained an Ex-parte decree. Subsequently an application was filed to set aside that ex-parte decree which was dismissed for default. Execution was sued out in Ex.2544/24-25 on the file of the said Court. Objections were taken that the decre did not bind the present Swami or the properties of the Mutt. The Court was pleased to pass the following order on the 27-9-1930.

ORDER.

The decree is against the Mutt properties. It cannot be said that the decree binds only the old Swami. The properties of the Mutt in the hands of the present Swami (2nd opponent) are liable in the sense that they can be proceeded against to satisfy the decree. On the execution side, the opponent cannot question the validity of the decree and the execution cannot go behind the decree. The relief claimed in the executio application is only against the properties of the Mutt. The objection taken to execution is therefore untenable. Execution shall proceed.

Sd/- D.A. Subordinate Judge.

Send for the attached amount by 24-10-30.

In these circumstances a regular suit may, if advised, be filed to set aside the decree obtained in O.S.93/19-20 on account of fraud &c.

"COPY"

Yaranaseega Rau

For Muzrai Commissioner.

The Public Prosecutor,
Bangalore Division,
Bangalore.

With reference to your letter No. 114 of 1930-31 dated the 25th September 1930 in the matter of the execution case against Sri Avani Mutt on the file of the Subordinate F Judge, Bangalore, I am directed to state that copies of the marginally noted applications &c., may be immediately forwarded to the Legal Remembrancer with your opinion as to the advisibility of appealing from the order of 27th September or as to what other action can be taken in the circumstances of the case (vide Rule 105 of the Legal Affairs Rules)

1. Plaint in O.S. No. 93 of 1919-20
2. Decree passed ex-parte in the case.
3. Execution Application in Ex. 254d of 24-25.
4. Mis. Application filed to set aside the Ex-parte Decree and the order passed thereon.
5. Objection Statement of the present Swami filed in the execution case
6. Order passed on 27-9-1930 in the Execution case.

I have the honor to be,
Sir,
Your most obedient servant,

Sd. B.N. Nagarathna

Secretary to Government,
Financial Department.

Memo No. 1202 mcg dated, Bangalore, the 26th November 1930.

Copy of the above is forwarded with compliments to the Muzrai Commissioner with reference to his letter No. C.115 of 1930-31 dated the 18th November 1930 for information and necessary further action.

By order,

V Subrahmanyasastri

for Secretary to Government,
Financial Department.

Appendix F G—1

SUBJECT.....

.....

.....

Section Misc

File No. 213-25

Serial No.

No. 1201

Diary No. of letter replied to.....

General and Revenue Secretariat

( )

the *193*

To

The P. P. Bangalore

Divn

Date of issue 26.11.30

Signed by Dr. V. S. Sastry

Sir,

With reference to your letter No. 114 of 30-31 of 25/9/30 in the matter of the Execution Case against Sri Avani Mull on the file of the Subordinate Magistrate Bangalore I am directed to state that copies of the miscellaneous applications etc may be immediately forwarded to the Legal Rem

[over

1 Plaint in O.S. 93 of 19-20

2) Decree passed ex-parte in the case

3) Execn Applns in Ex 2544/24-25

4) Misc Applns filed to set aside the Ex parte decree & the order passed thereon

List of enclosures.....

5) Objn Statement of the present Swamis filed in the Exn case

Copied by.....

6) Order passed on 27-9-1930 in the Exn case

Examined by.....

WD 02559—GPB—25,000—25 6-30

admissibility of appeal
from the order of 27th Sept
or as to what other action
can be taken in the circumstances
of the case (vide Rule 103
of the Legal Affairs Rules)
Thanks etc.

25.11.30
for Secy to Govt
H Dept

1202...
Copy to M-C. with Dept ltr
No C 115/30-31 dt 18/11/30 for
information and necessary further action
B.O

25.11.30
for Secy to Govt
H Dept

Copy to Ist Asst to L-R. for information.

A Cb
25/11

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE,

General and Revenue Secretariat,

No. 1487
Mez 213 - 25

Dated, Bangalore 8th January 1931

FROM

The *Secretary to Government of His Highness the Maharaja of Mysore,*
Financial Department. ~~xxxxxxxx~~ *Bangalore.*

To

The Muzrai Commissioner in Mysore,
Bangalore.

SIR,

In continuation of this office Memo No. 1202 dated 26th November 1930 in the matter of the Execution Case No. 2541 of 1924-25 against the Sri Avani Mutt on the file of the Subordinate Judge, Bangalore, I am directed to state that as the validity of the decree cannot be questioned during execution proceedings the only course now open is to institute a separate regular suit for a declaration that the ex-parte decree now under execution is not binding on the Mutt properties in the ~~procession~~ possession of the present Swami and for a permanent injunction restraining the decree-holder from proceeding against such properties in execution of the said decree. It is also to add that the proposed suit should be instituted within six years from the date on which the Mutt properties were attached or the money to the credit of the Mutt in the possession of the Deputy Commissioner was ordered to be sent to ~~the~~ Court and to request you to be so good as to take further necessary action very early in the matter in consultation with the Public Prosecutor.

I have the honor to be,
Sir,
Your most obedient servant,

Sd/- P. Srinivasa Iyengar,
Secretary to Government,
Financial Department.

P.T.O.

Memo No. [illegible]

Dated, Bangalore the 8th January

Copy of the above is forwarded to the Public Prosecutor, Bangalore.

V Subrahmanyasastri

For Financial Secretary to Govt.

Appendix F G—1

SUBJECT.....

.....

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Diary No. of letter replied to.....

General and Revenue Secretariat
( )
the 193 .

Date of issue 8/1/31

Signed by V. S. Sastri

List of enclosures.....

Copied by.....

Examined by.....

Urgent

Section Henry

File No. 213 - 25

Serial No.

No. 1487

To M. C.

Sir.

In Continuation of this office Memo no 1202 of 26.11.30 in the matter of the Execution no. 25447 1924-25 Case against the Sri Ahmed pending on the file of the Subordinate Judge Bangalore, I am directed to state that as the Validity of the decree cannot be questioned during Execution proceedings & the only Course now open is to institute a Regular separate Suit

[over

ex parte decree how under execution
is for sinking on the said
Properties in the possession
of the present tenants and
for permanent injunction
restraining the decree-holder
from proceeding against
such properties in execution
of the said decree. I am
also to add that the proposed
Suit should be instituted
within Six years from the
date on which the Mill
properties were attached
& the money to the Credit of the
Mill in the possession of the
W.C has ordered to be
Sent to Court and to
request you to be so good
as to take the necessary
action in the matter
in Consultation with the P. Px.

I have Etc

8.1.31

Sd/ [illegible]

7/1/31 // Copy to the Public Prosecutor, Bangalore Dt.